Qaeda safe house in Yemen.''—Senator Marco Rubio

A bulk collection program was not necessary to find Al Mihdhar prior to 9/11. As the PCLOB report details, the NSA had already begun intercepting calls to and from the safe house in Yemen in the late 1990s. Since the government knew the number of the safe house, and Al Mihdhar was calling that number, it would only be necessary to collect the phone records of the safe house to discover Al Mihdhar in San Diego. This is, in fact, an example of how targeted surveillance would have been more effective than bulk collection. The 9/11 Commission Report and other sources note that the CIA was aware of Mihdhar well before the attack and missed multiple opportunities to deny him entry to the U.S. or intensify their surveillance of him.

Claim 3: Bulk collection of phone records is the same as a subpoena. ''This is the way the system works and has worked for the last 50 years—40 years at least. A crime occurs. A prosecutor or the DEA agent investigates. They issue a subpoena to the local phone company that has these telephone toll records—the same thing you get in the mail—and they send them in response to the subpoena.''—Senator Jeff Sessions

The Second Circuit opinion, which held that the bulk collection program is unlawful, included a lengthy comparison of subpoenas and the bulk collection program. The bulk collection program encompasses a vastly larger quantity of records than could be obtained with a subpoena. The Second Circuit notes that subpoenas typically seek records of particular individuals or entities during particular time periods, but the government claims Sec. 215 provides authority to collect records connected to everyone—on an ''ongoing daily basis''—for an indefinite period extending into the future.

Claim 4: The government is only analyzing a few phone records. ''The next time that any politician—Senator, Congressman—talking head, whoever it may be, stands up and says ''The U.S. Government is [. . .] going through your phone records,'' they are lying. It is not true, except for some very isolated instances—in the hundreds—of individuals for whom there is reasonable suspicion that they could have links to terrorism.''—Senator Marco Rubio

The NSA's telephony bulk collection program collects the phone records of millions of Americans with no connection to a crime or terrorism. These records are stored with the NSA and they are analyzed scores of times each year when the NSA queries the numbers' connection to the phone numbers of suspects. Moreover, until 2014, when the NSA suspected a phone number was connected to terrorism, the NSA analyzed the phone records ''three hops'' out—querying those who called those who called those who called the original suspect number. As a result, the PCLOB estimated, a single query could subject the full calling records of over 420,000 phone numbers to deeper scrutiny. In 2014, the President limited the query to ''two hops''—though this can still encompass the full call records of thousands of phone numbers. The USA FREEDOM Act (Sec. 101) would authorize the government to obtain ''two hops'' worth of call records from telecom companies.

Claim 5: The USA FREEDOM Act threatens privacy by leaving phone records with telecom companies. ''[T]he opponents of America's counterterror programs would rather trust telecommunication companies to hold this data and search it on behalf of our government. [. . .] In addition to making us less safe, the USA FREEDOM Act would make our privacy less secure.''—Senator Mitch McConnell

The telecom companies already have the phone records since the records are created in the normal course of their business. The USA FREEDOM Act does not shift control of data from NSA to telecoms; the bill limits the volume of what the government can collect from companies with a single 215 order. Keeping the records with the phone companies, as the USA FREEDOM Act would require, does not create a new privacy intrusion, or, according to the public record, pose new security risks. In contrast, it is highly intrusive for the government to demand companies provide a copy of the communication records of millions of Americans on a daily basis to a secretive military intelligence agency for data mining.

One last important point: The discussion on the Senate Floor centered exclusively on the bulk collection of phone records. However, the debate and the legislation before Congress are not just about one telephony metadata program. The debate is over whether the government should have the authority to collect a variety of records in bulk under the PATRIOT Act. The government has claimed that its bulk collection authority extends to any type of record that can reveal hidden relationships among individuals—which could include phone call, email, cell phone location, and financial transaction records. Framing the issue in terms of phone records makes the problem seem much smaller than it is, especially as our society moves into a technology-enabled future where each individual will create much more metadata and digital records than the present. The stakes are high.

VOTE EXPLANATION

Mrs. BOXER. Mr. President. Due to a commitment in my state, I was unable to be here for the votes on the Iran Nuclear Agreement Review Act. Had I been present, I would have voted in support of this bill.

HONORING THOSE WHO HAVE GIVEN THE ULTIMATE SACRIFICE SERVING IN U.S. CUSTOMS AND BORDER PROTECTION

Mr. CARPER. Mr. President, the mission of U.S. Customs and Border Protection, CBP, is broad and diverse. The more than 60,000 men and women of CBP protect our borders at and between our ports of entry. They protect Americans against terrorists and the instruments of terror. They enforce our laws and help boost our economic security and prosperity by facilitating trade and travel. While the roles they play each day may differ, the men and women of CBP share one common goal: to keep our country a safe, secure, and resilient place where the American way of life can thrive. They provide selfless service to our country, and they do so with honor and distinction under an ever-present and evolving threat.

Today I wish to pay tribute to the agents and officers who have given the ultimate sacrifice in the service of our Nation. All told, 33 courageous men and women of CBP have died in the line of duty since the agency's inception in 2003. Today we commemorate these brave men and women, celebrate their lives, and offer their families and loved ones our continued support. They have earned the respect and appreciation of a grateful nation. I ask unanimous consent that a list of these agents and officers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

James P. Epling, Border Patrol Agent, U.S. Customs and Border Protection, Yuma, Arizona, End of Watch: December 16, 2003; Travis W. Attaway, Senior Patrol Agent, U.S. Customs and Border Protection, Harlingen, Texas, End of Watch: September 19, 2004; Jeremy M. Wilson, Senior Patrol Agent, U.S. Customs and Border Protection, Harlingen, Texas, End of Watch. September 19, 2004; George B. Debates, Senior Patrol Agent, U.S. Customs and Border Protection, Casa Grande, Arizona, End of Watch: December 19, 2004; Nicholas D. Greenig, Senior Patrol Agent, U.S. Customs and Border Protection, Tucson, Arizona, End of Watch: March 14, 2006; David N. Webb, Senior Patrol Agent, U.S. Customs and Border Protection, Ajo, Arizona, End of Watch: November 3, 2006.

Ramon Nevarez, Jr., Border Patrol Agent, U.S. Customs and Border Protection, Lordsburg, New Mexico, End of Watch: March 15, 2007; David J. Tourscher, Border Patrol Agent, U.S. Customs and Border Protection, Lordsburg, New Mexico, End of Watch: March 16, 2007; Clinton B. Thrasher, Air Interdiction Agent, U.S. Customs and Border Protection, McAllen, Texas, End of Watch: April 25, 2007; Richard Goldstein, Border Patrol Agent, U.S. Customs and Border Protection, Indio, California, End of Watch: May 11, 2007; Robert F. Smith, Air Interdiction Agent, U.S. Customs and Border Protection, El Paso, Texas, End of Watch: May 22, 2007; Eric N. Cabral, Border Patrol Agent, U.S. Customs and Border Protection, Boulevard, California, End of Watch: July 26, 2007.

Julio E. Baray, Air Interdiction Agent, U.S. Customs and Border Protection, El Paso, Texas, End of Watch: September 24, 2007; Luis A. Aguilar, Border Patrol Agent, U.S. Customs and Border Protection, Yuma, Arizona, End of Watch: January 19, 2008; Jarod C. Dittman, Border Patrol Agent, U.S. Customs and Border Protection, San Diego, California, End of Watch: March 30, 2008; Nathaniel A. Afolayan, Border Patrol Agent, U.S. Customs and Border Protection, Artesia, New Mexico, End of Watch: May 1, 2009; Cruz C. McGuire, Border Patrol Agent, U.S. Customs and Border Protection, Del Rio, Texas, End of Watch: May 21, 2009; Robert W. Rosas, Jr., Border Patrol Agent, U.S. Customs and Border Protection, Campo, California, End of Watch: July 23, 2009.

Mark F. Van Doren, Border Patrol Agent, U.S. Customs and Border Protection, Falfurrias, Texas, End of Watch: May 24, 2010; Charles F. Collins II, CBP Officer, U.S. Customs and Border Protection, Anchorage, Alaska, End of Watch: August 15, 2010; Michael V. Gallagher, Border Patrol Agent, U.S. Customs and Border Protection, Casa Grande, Arizona, End of Watch: September 2, 2010; John R. Zykas, CBP Officer, U.S. Customs and Border Protection, San Diego, California, End of Watch: September 8, 2010; Brian A. Terry, Border Patrol Agent, U.S. Customs and Border Protection, Naco Cochise, Arizona, End of Watch: December 15, 2010; Hector R. Clark, Border Patrol Agent, U.S. Customs and Border Protection, Yuma, Arizona, End of Watch: May 12, 2011; Eduardo Rojas, Jr., Border Patrol Agent, U.S. Customs and Border Protection, Yuma, Arizona, End of Watch: May 12, 2011.