

instructor at Desha Central Schools. Locally, he has been a dedicated board member of the Garland County Farm Bureau for over 30 years.

But Marion's service isn't just limited to Arkansas. He has also played an important role in the National FFA, where he has been a member of the board of directors, served as national treasurer, and has been a part of various task and action force committees. To quote longtime friend Keith Stokes, "there is not a young person who went through the FFA program that was not influenced in a positive way by Mr. Fletcher."

His hard work hasn't gone unnoticed, and he was honored with the first-ever National FFA Advisor's Golden Owl Award. He has also received the FFA VIP Award, recognition in the Arkansas Agriculture Hall of Fame, Arkansas's "service to citizens" award, and a litany of others on a long list of well-deserved commendations.

The honors, distinctions, and accolades earned by Marion are endless. Like those before me, I am proud to honor Marion's work and legacy. He is an outstanding Arkansan, and our State agriculture industry is better because he committed his life to agriculture education.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### USA FREEDOM ACT

Mr. WYDEN. Mr. President, in the aftermath of the horrific tragedy in Orlando, Americans are understandably concerned about whether law enforcement and intelligence officials have the tools they need to keep our people safe. I share these concerns and have for quite some time.

In 2013, I proposed that the government be authorized to obtain phone, email, and other records immediately in emergency situations and then after the fact come back for court review. That proposal I made in 2013 became law as part of the USA FREEDOM Act—it is section 102 of the USA FREEDOM Act—and as of today, that legislation I authored gives the FBI more authority to move immediately when they believe it is essential to protect the safety and well-being of Americans and our families.

I don't take a backseat to anybody when it comes to supporting efforts that are going to do everything possible to make Americans safer in their communities. So right now—and this is so often the case after a tragedy—when Americans want to be safer and they want their liberties, all too often proposals are advanced that in so many instances don't do much of either.

It is for that reason that I have come to the floor to express my concern about the sweeping surveillance amendment that was proposed this morning by the senior Senator from Texas. In my view, it is important for colleagues to see that this proposal would dramatically and unnecessarily expand the government's ability to conduct surveillance of Americans without court oversight.

In my judgment, it would not make our country any safer. The real implications are that it could significantly undermine the constitutional rights of law-abiding Americans, largely to save some paperwork for law enforcement officials.

As was described on the Senate floor this morning, this amendment would authorize individual FBI field offices to demand Americans' email and Internet records simply by issuing what is called a national security letter, which means there really is no court oversight whatsoever.

This authority currently exists for phone records, and law enforcement officials have repeatedly suggested that it would be convenient for email and Internet records to be collected in the same way. The FBI has not suggested that they are currently unable to obtain these records in counterterrorism investigations. Law enforcement officials have simply been arguing that it would be more convenient to operate without judicial oversight. I find this position very troubling because I don't see anything in the writings of the Founding Fathers that says convenience alone should justify a dramatic erosion of the constitutional rights of law-abiding Americans.

It is important to understand that this sweeping expansion of surveillance authorities is not necessary. If FBI officials have reason to suspect an individual is connected to terrorism or espionage, they already have the ability to access that person's email and Internet records by simply obtaining an order in the Foreign Intelligence Surveillance Court. These orders can be issued in secret and require relatively little evidence. The FBI just needs to assert that the records are "relevant to an investigation," and that is not difficult to do. But requiring the approval of an independent judge provides an important chapter against the abuse or misuse of this authority. By contrast, national security letters are not reviewed by a judge unless a company that receives one attempts to challenge it.

As I indicated earlier this afternoon, I appreciate the FBI's interest in obtaining records about potential suspects quickly, but my view is that Foreign Intelligence Surveillance Court judges in the typical situation are very capable of reviewing and approving requests for court orders in a timely fashion, and that is why I made mention of it.

If the government thinks that there is an emergency situation and that

time is so critical, the government can use that section of the USA FREEDOM Act that I authored, Section 102, to obtain records immediately in an emergency situation and then go seek court review after the fact.

As I indicated, I have been supportive of this for quite some time, but I think giving the government the authority to move in emergency situations is very different from giving the government substantial new surveillance authority just because some officials don't like doing paperwork. If the FBI's own process for reviewing orders is too slow, then the appropriate solution is administrative reforms, not a major expansion of government surveillance authorities.

While this amendment would not apply to the text of emails, it would allow the FBI a wide variety of information, including records of whom individuals exchange emails with and when, as well as individuals' log-in history, IP addresses, and Internet browsing history. This sort of surveillance can clearly reveal an extensive amount of information about individual Americans. Our Founding Fathers rightly argued that these kinds of intrusive searches ought to be approved by independent judges.

At this point, I believe it is worth noting that President George W. Bush's administration reached the same conclusion that I have described this afternoon. In November of 2008, the Justice Department's Office of Legal Counsel advised the FBI that national security letters could only be used to obtain certain types of records, and this list did not include electronic communication records. The FBI has, unfortunately, not adhered to this guidance and has at times continued to issue national security letters for electronic communications records. A number of companies that have received these overly broad national security letters have rightfully challenged them, as I have indicated, as improper. Broadening the national security letter statute to include electronic communication transaction records would be a significant expansion of warrantless surveillance authority.

Unfortunately, the government's track record with its existing national security letter authorities includes a substantial amount of abuse and misuse. These problems were extensively documented by the Justice Department's inspector general in 2007, 2008, 2010, and 2014. In my judgment, it would be reckless to expand this particular surveillance authority when the government has so frequently failed to use its existing authorities responsibly.

In 2013, President Obama's surveillance review group looked at the national security letter statute. This group included a number of distinguished national security leaders, including former White House counterterrorism adviser Richard Clarke and former Acting CIA Director Mike Morell. They determined—and I think

what is so noteworthy is that at a time when the President assembled practically an NBA All-Star team of counterterror leaders, this group determined that national security letter authority ought to be narrowed, not expanded. They were making a judgment to counter to the senior Senator from Texas, and they felt they ought to go the other way and be more cautious about how it is used.

These leading national security officials, the names of whom I have just given, stated in their report that national security letters have been, in their view, highly controversial and noted that there have been “serious compliance issues on the part of the government.” They concluded the following: “For all the well-established reasons for requiring neutral and detached judges to decide when government investigators may invade an individual’s privacy”—their words and not mine—“there is a strong argument that [national security letters] should not be issued by the FBI.”

National security letters was what the description of the issue was all about. In the judgment of these experts, the government should seek the approval of a judge the way our Founding Fathers intended.

I want it understood that I would strongly oppose the surveillance amendment filed this morning. My view is that it would erode our core constitutional rights without making our country safer.

All over the country right now, Americans are asking what can be done to make our country safer. This morning, for example, we had the CIA Director, Mr. Brennan, in the Intelligence Committee, and I pointed out that one of the things that help Americans be as safe as possible is strong encryption for their smartphones. Those smartphones have people’s different transactions, such as medical and financial information. Their whole life is in those smartphones. If you weaken strong encryption and require companies—as several of our colleagues want to do—to build back doors into these digital products, Americans are going to be less safe.

For example, a number of the smartphones have a location tracker so parents can keep tabs on their youngster. Well, if you weaken encryption and weaken the location tracker, you are pretty much giving a gift to pedophiles because it will be easy to track youngsters as a result of weakening encryption.

We had a discussion about it this morning. The comment I was concerned about in particular this morning was when I said “Hey, if we weaken encryption in the United States, the reality is that terrorists, hackers, and others will go overseas, where there are hundreds of products with strong encryption,” it was the view of the CIA Director that that was “theoretical.” So I was forced to correct that later in the course of the day to say that some

of the leading experts in cyber security said that this is not theoretical.

The reality is that there are hundreds of products overseas with strong encryption. So think about that one. What we would be doing if we weakened encryption is we would be adopting a policy that would leave our people less secure and their liberties more at risk right at the time when they are saying, after the horrific tragedy in Orlando, that they want better policies to promote their safety and make sure their liberties are kept.

This is a debate we are going to have in several forms. We will have them in committee rooms and on the floor of the Senate. I just want it understood that the reason I am opposing what the senior Senator from Texas talked about today is that I think it flies right in the face of what I have described. It does nothing to make us safer, and it puts our liberties at risk, much as the distinguished panel that was put together by the President—all these outstanding counterterror officials—said when they expressed concern about the whole future of national security letters.

There is a way to do this right, and I would submit that is what we did in Section 102 of the USA FREEDOM Act. It was something I had talked about with the President on several occasions. I am willing to say what I said but not what the President said.

I have repeatedly said to the government that if the government doesn’t have enough authority in emergency situations to protect the American people, I will use my ability as a senior member of the Intelligence Committee to make sure they have that authority. We did that in the USA FREEDOM Act. The government can move immediately to collect phone and email records and then come back later to go through the court review process. That is the kind of model we ought to use, not what we heard about this morning from the senior Senator from Texas that would expand government surveillance authority, put our liberties at risk, and not make our country safer.

I am sure this will be a topic of extensive discussion on the Senate floor next week. I just wanted to take this opportunity to outline my views on the topic.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. COONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GUN VIOLENCE

Mr. COONS. Mr. President, I am coming to the floor today to join so many of my colleagues who have spoken over the last day to encourage bipartisan

cooperation on commonsense legislation to address the gun violence epidemic that plagues our Nation and my home State of Delaware. I want to thank my colleagues, Senators MURPHY and BLUMENTHAL, for their consistent and unwavering commitment in addressing this very real national crisis.

In the aftermath of the tragic mass shooting of Orlando, I have been filled with many emotions, as have so many of my colleagues—grief for the victims and their families, concern for the city of Orlando, grief for the greater LGBTQ community across our Nation and world, anger toward the perpetrator and the extremists who spread hatred, violence, and fear around the world, and a powerful, deep-seated frustration that our government, our Congress, this Senate, has not taken needed steps to keep dangerous and unstable individuals from getting access to guns. The atrocity that took place at the Pulse nightclub in Orlando, FL, was more than just a cowardly act of terrorism and a despicable, violent rampage of hate against our LGBTQ brothers and sisters; it was also an attack on the very freedoms in our way of life. From the brave first responders and law enforcement officers who rushed to the scene, to the hundreds, even thousands, of Floridians who lined up in the days since to donate blood, tragedies like these so often showcase the very best and worst of humanity in the same heartbreaking moment.

This mass shooting—the worst mass shooting in American history—should force us to confront a number of powerful but unanswered questions: Are we going to be a nation that celebrates our diversity or one that stokes fear, division, and hatred? Are we going to engage the American Muslim community in pursuing our shared goal of defeating the scourge of terrorism, or are we going to malign and alienate 1.6 billion people from one of the world’s great religions? Are we together going to pass commonsense safety measures addressing gun violence, or is this Senate, yet again, going to accept the status quo?

Our Nation, my State, my constituents, my neighbors, are crying out for the Members of this body to have the courage of our convictions and to address this moment. Regardless of the Orlando attacker’s intentions or his background, Congress must act to prevent known or suspected terrorists from having the unfettered ability to purchase high-powered military grade weaponry. That means ensuring that we have a universal system of background checks when a firearm is purchased. It also means ensuring that the U.S. Department of Justice gets notified when a known or suspected terrorist goes to buy a gun so that the Department can investigate or stop a transaction that might immediately endanger citizens’ lives.

Today an estimated 40 percent of all gun sales are sold by unlicensed dealers who are not required to conduct any