

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 9087
OFFERED BY MR. ISSA OF CALIFORNIA**

At the appropriate place, insert the following:

1 **SEC. ____ . ADMINISTRATIVE SUBPOENA AUTHORITY FOR**
2 **IMMINENT THREATS TO DEPARTMENT OF**
3 **STATE PROTECTEES AND FACILITIES.**

4 (a) **AUTHORITY.**—Section 3486(a)(1)(A) of title 18,
5 United States Code, is amended—

6 (1) in clause (ii), by striking “or” at the end;

7 (2) by redesignating clause (iii) as clause (iv);

8 and

9 (3) by inserting after clause (ii) the following:

10 “(iii) an imminent threat against a person,
11 facility, mission, residence, event, or operation
12 protected under section 37 of the State Depart-
13 ment Basic Authorities Act of 1956 (22 U.S.C.
14 2709) or section 103 of the Omnibus Diplo-
15 matic Security and Antiterrorism Act of 1986
16 (22 U.S.C. 4802) conducted by the Department
17 of State, the Secretary of State; or”.

1 (b) DEPARTMENT OF STATE SUBPOENAS.—Section
2 3486 of title 18, United States Code, is further amend-
3 ed—

4 (1) in subsection (a)(1)(A)(iv), as so redesign-
5 nated, by inserting “or the Secretary of the State”
6 after “Secretary of the Treasury”; and

7 (2) by adding at the end the following:

8 “(f) DEPARTMENT OF STATE SUBPOENAS.—

9 “(1) LIMITATION TO NON-CONTENT
10 RECORDS.—A subpoena issued by the Secretary of
11 State under subsection (a)(1)(A)(iv) may require
12 production only of records or other non-content in-
13 formation relevant to identifying, locating, assessing,
14 or mitigating an imminent threat.

15 “(2) PROCEDURES AND ATTORNEY GENERAL
16 ROLE.—

17 “(A) The Secretary of State shall prescribe
18 procedures, developed in coordination with the
19 Attorney General, governing the approval, serv-
20 ice, return, retention, minimization, and report-
21 ing of subpoenas issued under subsection
22 (a)(1)(A)(iv).

23 “(B) The Secretary shall provide concur-
24 rent written notification to the Attorney Gen-

1 eral upon issuance of any subpoena under sub-
2 section (a)(1)(A)(iv).

3 “(C) If the Attorney General determines,
4 within 24 hours of receiving notification under
5 subparagraph (B), that the subpoena would
6 materially interfere with an ongoing Federal
7 criminal investigation or prosecution, the Attor-
8 ney General shall so notify the Secretary in
9 writing, and the Secretary shall not enforce the
10 subpoena unless the Secretary determines in
11 writing that the imminent threat cannot be
12 mitigated by other available means and docu-
13 ments the basis for that determination.

14 “(D) The Secretary shall submit to the ap-
15 propriate congressional committees a semi-
16 annual report on the number of subpoenas
17 issued under subsection (a)(1)(A)(iv), the cat-
18 egories of records sought, and the outcomes of
19 any Attorney General notifications under sub-
20 paragraph (C).

21 “(3) RULE OF CONSTRUCTION.—Nothing in
22 this subsection shall be construed to authorize the
23 interception or acquisition of the contents of any
24 wire, oral, or electronic communication, or to alter

1 any requirement for a warrant, court order, or other
2 legal process otherwise required by law.

3 “(4) DEFINITIONS.—In this subsection:

4 “(A) IMMINENT THREAT.—The term ‘im-
5 minent threat’ means a credible, specific threat
6 of death, serious bodily injury, kidnapping, de-
7 struction of a facility, or disruption of a diplo-
8 matic mission that the Secretary of State deter-
9 mines, based on articulable facts, presents a
10 risk of harm within 72 hours to a person, facil-
11 ity, mission, residence, event, or operation pro-
12 tected under section 37 of the State Depart-
13 ment Basic Authorities Act of 1956 (22 U.S.C.
14 2709) or section 103 of the Omnibus Diplo-
15 matic Security and Antiterrorism Act of 1986
16 (22 U.S.C. 4802).

17 “(B) NON-CONTENT RECORDS.—The term
18 ‘non-content records’ means records or other in-
19 formation that do not constitute the contents of
20 a wire communication, oral communication, or
21 electronic communication, as such terms are de-
22 fined in section 2510(8) of this title.”.

