

Patrick Leahy
S.L.C.

113TH CONGRESS
2D SESSION

S. _____

To reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

Cosponsors:

- Lee
- Durbin
- Heller
- Franken
- Cruz
- Blumenthal
- Udall (NM)
- Coons
- Heinrich
- Markley
- Hirono
- Klobuchar
- Whitehouse

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY introduced the following bill, which was read twice and referred to the Committee on _____

A BILL

To reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the

5 "Uniting and Strengthening America by Fulfilling Rights

1 and Ensuring Effective Discipline Over Monitoring Act of
2 2014” or the “USA FREEDOM Act of 2014”.

3 (b) TABLE OF CONTENTS.—The table of contents for
4 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

- Sec. 101. Additional requirements for call detail records.
- Sec. 102. Emergency authority.
- Sec. 103. Prohibition on bulk collection of tangible things.
- Sec. 104. Judicial review.
- Sec. 105. Liability protection.
- Sec. 106. Compensation for assistance.
- Sec. 107. Definitions.
- Sec. 108. Inspector General reports on business records orders.
- Sec. 109. Effective date.
- Sec. 110. Rule of construction.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE REFORM

- Sec. 201. Prohibition on bulk collection.
- Sec. 202. Privacy procedures.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS

- Sec. 301. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

- Sec. 401. Appointment of amicus curiae.
- Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

- Sec. 501. Prohibition on bulk collection.
- Sec. 502. Limitations on disclosure of national security letters.
- Sec. 503. Judicial review.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

- Sec. 601. Additional reporting on orders requiring production of business records; business records compliance reports to Congress.
- Sec. 602. Annual reports by the Government.
- Sec. 603. Public reporting by persons subject to FISA orders.
- Sec. 604. Reporting requirements for decisions, orders, and opinions of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review.

Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

Sec. 701. Sunsets.

1 **SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE**
2 **SURVEILLANCE ACT OF 1978.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to
7 a section or other provision of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

9 **TITLE I—FISA BUSINESS**
10 **RECORDS REFORMS**

11 **SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL**
12 **RECORDS.**

13 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
14 1861(b)(2)) is amended—

15 (1) in subparagraph (A)—

16 (A) in the matter preceding clause (i), by
17 striking “a statement” and inserting “in the
18 case of an application other than an application
19 described in subparagraph (C) (including an ap-
20 plication for the production of call detail
21 records other than in the manner described in
22 subparagraph (C)), a statement”; and

1 (B) in clause (iii), by striking “; and” and
2 inserting a semicolon;

3 (2) by redesignating subparagraphs (A) and
4 (B) as subparagraphs (B) and (D), respectively; and

5 (3) by inserting after subparagraph (B) (as so
6 ~~redesignated) the following new subparagraph:~~

7 “(C) in the case of an application for the
8 production on a daily basis of call detail records
9 created before, on, or after the date of the ap-
10 plication relating to an authorized investigation
11 (other than a threat assessment) conducted in
12 accordance with subsection (a)(2) to protect
13 against international terrorism, a statement of
14 facts showing that—

15 “(i) there are reasonable grounds to
16 believe that the call detail records sought
17 to be produced based on the specific selec-
18 tion term required under subparagraph (A)
19 are relevant to such investigation; and

20 “(ii) there is a reasonable, articulable
21 suspicion that such specific selection term
22 is associated with a foreign power engaged
23 in international terrorism or activities in
24 preparation therefor, or an agent of a for-
25 eign power engaged in international ter-

1 required under subsection (b)(2)(C)(ii)
2 as the basis for production; and

3 “**(II)** using call detail records
4 with a direct connection to such spe-
5 cific selection term as the basis for
6 production of a second set of call de-
7 tail records;

8 “(iv) provide that, when produced,
9 such records be in a form that will be use-
10 ful to the Government;

11 “(v) direct each person the Govern-
12 ment directs to produce call detail records
13 under the order to furnish the Government
14 forthwith all information, facilities, or
15 technical assistance necessary to accom-
16 plish the production in such a manner as
17 will protect the secrecy of the production
18 and produce a minimum of interference
19 with the services that such person is pro-
20 viding to each subject of the production;
21 and

22 “(vi) direct the Government to—

23 “(I) adopt minimization proce-
24 dures that require the prompt de-
25 struction of all call detail records pro-

1 duced under the order that the Gov-
2 ernment determines are not foreign
3 intelligence information; and

4 “**(II)** destroy all call detail
5 records produced under the order as
6 prescribed by such procedures.”.

7 SEC. 102. EMERGENCY AUTHORITY.

8 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is
9 amended by adding at the end the following new sub-
10 section.

11 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**
12 **TANGIBLE THINGS.**—

13 “(1) Notwithstanding any other provision of
14 this section, the Attorney General may require the
15 emergency production of tangible things if the Attor-
16 ney General—

17 “(A) reasonably determines that an emer-
18 gency situation requires the production of tan-
19 gible things before an order authorizing such
20 production can with due diligence be obtained;

21 “(B) reasonably determines that the fac-
22 tual basis for the issuance of an order under
23 this section to approve such production of tan-
24 gible things exists;

1 “(C) informs, either personally or through
2 a designee, a judge having jurisdiction under
3 this section at the time the Attorney General
4 requires the emergency production of tangible
5 things that the decision has been made to em-
6 ploy the authority under this subsection; and

7 “(D) makes an application in accordance
8 with this section to a judge having jurisdiction
9 under this section as soon as practicable, but
10 not later than 7 days after the Attorney Gen-
11 eral requires the emergency production of tan-
12 gible things under this subsection.

13 “(2) If the Attorney General authorizes the
14 emergency production of tangible things under para-
15 graph (1), the Attorney General shall require that
16 the minimization procedures required by this section
17 for the issuance of a judicial order be followed

18 “(3) In the absence of a judicial order approv-
19 ing the production of tangible things under this sub-
20 section, the production shall terminate when the in-
21 formation sought is obtained, when the application
22 for the order is denied, or after the expiration of 7
23 days from the time the Attorney General begins re-
24 quiring the emergency production of such tangible
25 things, whichever is earliest.

1 “(4) A denial of the application made under
2 this subsection may be reviewed as provided in sec-
3 tion 103.

4 “(5) If such application for approval is denied,
5 or in any other case where the production of tangible
6 things is terminated and no order is issued approv-
7 ing the production, no information obtained or evi-
8 dence derived from such production shall be received
9 in evidence or otherwise disclosed in any trial, hear-
10 ing, or other proceeding in or before any court,
11 grand jury, department, office, agency, regulatory
12 body, legislative committee, or other authority of the
13 United States, a State, or a political subdivision
14 thereof, and no information concerning any United
15 States person acquired from such production shall
16 subsequently be used or disclosed in any other man-
17 ner by Federal officers or employees without the
18 consent of such person, except with the approval of
19 the Attorney General if the information indicates a
20 threat of death or serious bodily harm to any per-
21 son.

22 “(6) The Attorney General shall assess compli-
23 ance with the requirements of paragraph (5).”.

24 (b) CONFORMING AMENDMENT.—Section 501(d) (50
25 U.S.C. 1861(d)) is amended—

1 (1) in paragraph (1)—

2 (A) in the matter preceding subparagraph
3 (A), by striking “pursuant to an order” and in-
4 serting “pursuant to an order issued or an
5 emergency production required”;

6 (B) in subparagraph (A), by striking “such
7 order” and inserting “such order or such emer-
8 gency production”; and

9 (C) in subparagraph (B), by striking “the
10 order” and inserting “the order or the emer-
11 gency production”; and

12 (2) in paragraph (2)—

13 (A) in subparagraph (A), by striking “an
14 order” and inserting “an order or emergency
15 production”; and

16 (B) in subparagraph (B), by striking “an
17 order” and inserting “an order or emergency
18 production”.

19 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**
20 **GIBLE THINGS.**

21 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
22 1861(b)(2)), as amended by section 101(a) of this Act,
23 is further amended by inserting before subparagraph (B),
24 as redesignated by such section 101(a) of this Act, the
25 following new subparagraph:

1 “(A) a specific selection term to be used as
2 the basis for the production of the tangible
3 things sought;”.

4 (b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is
5 amended—

6 (1) in paragraph (2)(A), by striking the semi-
7 colon and inserting “, including each specific selec-
8 tion term to be used as the basis for the produc-
9 tion;”; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(3) No order issued under this subsection may au-
13 thorize the collection of tangible things without the use
14 of a specific selection term that meets the requirements
15 of subsection (b)(2).”.

16 (c) MINIMIZATION PROCEDURES.—Section 501(g)(2)
17 (50 U.S.C. 1861(g)(2)) is amended—

18 (1) in subparagraph (B), by striking “and” at
19 the end;

20 (2) by redesignating subparagraph (C) as sub-
21 paragraph (D);

22 (3) by inserting after subparagraph (B) the fol-
23 lowing:

24 “(C) for orders in which the specific selec-
25 tion term does not specifically identify an indi-

1 unless the tangible thing or information therein
2 indicates a threat of death or serious bodily
3 harm to any person or is disseminated to an-
4 other element of the intelligence community for
5 the sole purpose of determining whether the
6 tangible thing or information therein relates to
7 a person who is described in clause (i), (ii), (iii),
8 or (iv); and”;

9 (4) in subparagraph (D), as so redesignated, by
10 striking “(A) and (B)” and inserting “(A), (B), and
11 (C)”.

12 **SEC. 104. JUDICIAL REVIEW.**

13 (a) MINIMIZATION PROCEDURES.—

14 (1) JUDICIAL REVIEW.—Section 501(c)(1) (50
15 U.S.C. 1861(c)(1)) is amended by inserting after
16 “subsections (a) and (b)” the following: “and that
17 the minimization procedures submitted in accord-
18 ance with subsection (b)(2)(D) meet the definition of
19 minimization procedures under subsection (g)”.

20 (2) TECHNICAL AND CONFORMING AMEND-
21 MENT.—Section 501(g)(1) (50 U.S.C. 1861(g)(1)) is
22 amended—

23 (A) by striking “Not later than 180 days
24 after the date of the enactment of the USA PA-

1 TRIOT Improvement and Reauthorization Act
2 of 2005, the” and inserting “The”; and

3 (B) by inserting after “adopt” the fol-
4 lowing: “, and update as appropriate,”.

5 (b) ORDERS.—Section 501(f)(2) (50 U.S.C.
6 1861(f)(2)) is amended—

7 (1) in subparagraph (A)(i)—

8 (A) by striking “that order” and inserting
9 “the production order or any nondisclosure
10 order imposed in connection with the produc-
11 tion order”; and

12 (B) by striking the second sentence; and

13 (2) in subparagraph (C)—

14 (A) by striking clause (ii); and

15 (B) by redesignating clause (iii) as clause
16 (ii).

17 **SEC. 105. LIABILITY PROTECTION.**

18 Section 501(e) (50 U.S.C. 1861(e)) is amended to
19 read as follows:

20 “(e)(1) No cause of action shall lie in any court
21 against a person who—

22 “(A) produces tangible things or provides infor-
23 mation, facilities, or technical assistance in accord-
24 ance with an order issued or an emergency produc-
25 tion required under this section; or

1 “(B) otherwise provides technical assistance to
2 the Government under this section or to implement
3 the amendments made to this section by the USA
4 FREEDOM Act of 2014.

5 “(2) A production or provision of information, facili-
6 ties, or technical assistance described in paragraph (1)
7 shall not be deemed to constitute a waiver of any privilege
8 in any other proceeding or context.”.

9 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

10 Section 501 (50 U.S.C. 1861), as amended by section
11 102 of this Act, is further amended by adding at the end
12 the following new subsection:

13 “(j) COMPENSATION.—The Government shall com-
14 pensate a person for reasonable expenses incurred for—

15 “(1) producing tangible things or providing in-
16 formation, facilities, or assistance in accordance with
17 an order issued with respect to an application de-
18 scribed in subsection (b)(2)(C) or an emergency pro-
19 duction under subsection (i) that, to comply with
20 subsection (i)(1)(D), requires an application de-
21 scribed in subsection (b)(2)(C); or

22 “(2) otherwise providing technical assistance to
23 the Government under this section or to implement
24 the amendments made to this section by the USA
25 FREEDOM Act of 2014.”.

1 **SEC. 107. DEFINITIONS.**

2 Section 501 (50 U.S.C. 1861), as amended by section
3 106 of this Act, is further amended by adding at the end
4 the following new subsection:

5 “(k) DEFINITIONS.—In this section:

6 “(1) ADDRESS.—The term ‘address’ means a
7 physical address or electronic address, such as an
8 electronic mail address, temporarily assigned net-
9 work address, or Internet protocol address.

10 “(2) CALL DETAIL RECORD.—The term ‘call de-
11 tail record’—

12 “(A) means session identifying information
13 (including an originating or terminating tele-
14 phone number, an International Mobile Sub-
15 scriber Identity number, or an International
16 Mobile Station Equipment Identity number), a
17 telephone calling card number, or the time or
18 duration of a call; and

19 “(B) does not include—

20 “(i) the contents (as defined in section
21 2510(8) of title 18, United States Code) of
22 any communication;

23 “(ii) the name, address, or financial
24 information of a subscriber or customer; or

25 “(iii) cell site location information.

26 “(3) SPECIFIC SELECTION TERM.—

1 701) or a provider of remote com-
2 puting service (as that term is defined
3 in section 2711 of title 18, United
4 States Code), when not used as part
5 of a specific identifier as described in
6 clause (i), unless the provider is itself
7 a subject of an authorized investiga-
8 tion for which the specific selection
9 term is used as the basis of produc-
10 tion.

11 “(B) CALL DETAIL RECORD APPLICA-
12 TIONS.—For purposes of an application sub-
13 mitted under subsection (b)(2)(C), the term
14 ‘specific selection term’ means a term that spe-
15 cifically identifies an individual, account, or per-
16 sonal device.”.

17 **SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS**
18 **RECORDS ORDERS.**

19 Section 106A of the USA PATRIOT Improvement
20 and Reauthorization Act of 2005 (Public Law 109–177;
21 120 Stat. 200) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1), by inserting “and
24 calendar years 2012 through 2014” after
25 “2006”;

1 (B) by striking paragraphs (2) and (3);

2 (C) by redesignating paragraphs (4) and

3 (5) as paragraphs (2) and (3), respectively; and

4 (D) in paragraph (3) (as so redesign-
5 nated)—

6 (i) by striking subparagraph (C) and

7 inserting the following new subparagraph:

8 “(C) with respect to calendar years 2012
9 through 2014, an examination of the minimiza-
10 tion procedures used in relation to orders under
11 section 501 of the Foreign Intelligence Surveil-
12 lance Act of 1978 (50 U.S.C. 1861) and wheth-
13 er the minimization procedures adequately pro-
14 tect the constitutional rights of United States
15 persons;”; and

16 (ii) in subparagraph (D), by striking

17 “(as such term is defined in section 3(4) of
18 the National Security Act of 1947 (50
19 U.S.C. 401a(4))”;

20 (2) in subsection (c), by adding at the end the
21 following new paragraph:

22 “(3) CALENDAR YEARS 2012 THROUGH 2014.—
23 Not later than December 31, 2015, the Inspector
24 General of the Department of Justice shall submit
25 to the Committee on the Judiciary and the Select

1 Committee on Intelligence of the Senate and the
2 Committee on the Judiciary and the Permanent Se-
3 lect Committee on Intelligence of the House of Rep-
4 resentatives a report containing the results of the
5 audit conducted under subsection (a) for calendar
6 years 2012 through 2014.”;

7 (3) by redesignating subsections (d) and (e) as
8 subsections (e) and (f), respectively;

9 (4) by inserting after subsection (c) the fol-
10 lowing new subsection:

11 “(d) INTELLIGENCE ASSESSMENT.—

12 “(1) IN GENERAL.—For the period beginning
13 on January 1, 2012, and ending on December 31,
14 2014, the Inspector General of the Intelligence Com-
15 munity shall assess—

16 “(A) the importance of the information ac-
17 quired under title V of the Foreign Intelligence
18 Surveillance Act of 1978 (50 U.S.C. 1861 et
19 seq.) to the activities of the intelligence commu-
20 nity;

21 “(B) the manner in which that information
22 was collected, retained, analyzed, and dissemi-
23 nated by the intelligence community;

24 “(C) the minimization procedures used by
25 elements of the intelligence community under

1 such title and whether the minimization proce-
2 dures adequately protect the constitutional
3 rights of United States persons; and

4 “(D) any minimization procedures pro-
5 posed by an element of the intelligence commu-
6 nity under such title that were modified or de-
7 nied by the court established under section
8 103(a) of such Act (50 U.S.C. 1803(a)).

9 “(2) SUBMISSION DATE FOR ASSESSMENT.—
10 Not later than 180 days after the date on which the
11 Inspector General of the Department of Justice sub-
12 mits the report required under subsection (c)(3), the
13 Inspector General of the Intelligence Community
14 shall submit to the Committee on the Judiciary and
15 the Select Committee on Intelligence of the Senate
16 and the Committee on the Judiciary and the Perma-
17 nent Select Committee on Intelligence of the House
18 of Representatives a report containing the results of
19 the assessment for calendar years 2012 through
20 2014.”;

21 (5) in subsection (e), as redesignated by para-
22 graph (3)—

23 (A) in paragraph (1)—

1 (i) by striking “a report under sub-
2 section (c)(1) or (c)(2)” and inserting “any
3 report under subsection (c) or (d)”; and

4 (ii) by striking “Inspector General of
5 the Department of Justice” and inserting
6 “Inspector General of the Department of
7 Justice, the Inspector General of the Intel-
8 ligence Community, and any Inspector
9 General of an element of the intelligence
10 community that prepares a report to assist
11 the Inspector General of the Department
12 of Justice or the Inspector General of the
13 Intelligence Community in complying with
14 the requirements of this section”; and

15 (B) in paragraph (2), by striking “the re-
16 ports submitted under subsections (c)(1) and
17 (c)(2)” and inserting “any report submitted
18 under subsection (c) or (d)”; and

19 (6) in subsection (f), as redesignated by para-
20 graph (3)—

21 (A) by striking “The reports submitted
22 under subsections (c)(1) and (c)(2)” and insert-
23 ing “Each report submitted under subsection
24 (c)”; and

1 (B) by striking “subsection (d)(2)” and in-
2 serting “subsection (e)(2)”; and

3 (7) by adding at the end the following new sub-
4 section:

5 “(g) DEFINITIONS.—In this section:

6 “(1) INTELLIGENCE COMMUNITY.—The term
7 ‘intelligence community’ has the meaning given that
8 term in section 3 of the National Security Act of
9 1947 (50 U.S.C. 3003).

10 “(2) UNITED STATES PERSON.—The term
11 ‘United States person’ has the meaning given that
12 term in section 101 of the Foreign Intelligence Sur-
13 veillance Act of 1978 (50 U.S.C. 1801).”.

14 **SEC. 109. EFFECTIVE DATE.**

15 (a) IN GENERAL.—The amendments made by sec-
16 tions 101 through 103 shall take effect on the date that
17 is 180 days after the date of the enactment of this Act.

18 (b) RULE OF CONSTRUCTION.—Nothing in this Act
19 shall be construed to alter or eliminate the authority of
20 the Government to obtain an order under title V of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1861 et seq.) as in effect prior to the effective date de-
23 scribed in subsection (a) during the period ending on such
24 effective date.

1 **SEC. 110. RULE OF CONSTRUCTION.**

2 Nothing in this Act shall be construed to authorize
3 the production of the contents (as such term is defined
4 in section 2510(8) of title 18, United States Code) of any
5 electronic communication from an electronic communica-
6 tion service provider (as such term is defined in section
7 701(b)(4) of the Foreign Intelligence Surveillance Act of
8 1978 (50 U.S.C. 1881(b)(4)) under title V of the Foreign
9 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et
10 seq.).

11 **TITLE II—FISA PEN REGISTER**
12 **AND TRAP AND TRACE DE-**
13 **VICE REFORM**

14 **SEC. 201. PROHIBITION ON BULK COLLECTION.**

15 (a) PROHIBITION.—Section 402(c) (50 U.S.C.
16 1842(c)) is amended—

17 (1) in paragraph (1), by striking “; and” and
18 inserting a semicolon;

19 (2) in paragraph (2)—

20 (A) by striking “a certification by the ap-
21 plicant” and inserting “a statement of the facts
22 and circumstances relied upon by the applicant
23 to justify the belief of the applicant”; and

24 (B) by striking the period and inserting “;
25 and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(3) a specific selection term to be used as the
4 basis for the installation or use of the pen register
5 or trap and trace device.”.

6 (b) DEFINITION.—Section 401 (50 U.S.C. 1841) is
7 amended by adding at the end the following new para-
8 graph:

9 “(4)(A) The term ‘specific selection term’—

10 “(i) means a term that specifically identi-
11 fies a person, account, address, or personal de-
12 vice, or another specific identifier, that is used
13 by the Government to narrowly limit the scope
14 of information sought to the greatest extent
15 reasonably practicable, consistent with the pur-
16 pose for the installation or use of the pen reg-
17 ister or trap and trace device; and

18 “(ii) does not include a term that does not
19 narrowly limit the scope of information sought
20 to the greatest extent reasonably practicable,
21 consistent with the purpose for the installation
22 or use of the pen register or trap and trace de-
23 vice, such as—

24 “(I) a term based on a broad geo-
25 graphic region, including a city, State, zip

1 code, or area code, when not used as part
2 of a specific identifier as described in
3 clause (i); or

4 “(II) a term identifying an electronic
5 communication service provider (as defined
6 in section 701) or a provider of remote
7 computing service (as that term is defined
8 in section 2711 of title 18, United States
9 Code), when not used as part of a specific
10 identifier as described in clause (i), unless
11 the provider is itself a subject of an au-
12 thorized investigation for which the specific
13 selection term is used as the basis for the
14 installation or use of the pen register or
15 trap and trace device.

16 “(B) For purposes of subparagraph (A), the
17 term ‘address’ means a physical address or elec-
18 tronic address, such as an electronic mail address,
19 temporarily assigned network address, or Internet
20 protocol address.”.

21 **SEC. 202. PRIVACY PROCEDURES.**

22 (a) IN GENERAL.—Section 402 (50 U.S.C. 1842) is
23 amended by adding at the end the following new sub-
24 section:

25 “(h) PRIVACY PROCEDURES.—

1 “(1) IN GENERAL.—The Attorney General shall
2 ensure that appropriate policies and procedures are
3 in place to safeguard nonpublicly available informa-
4 tion concerning United States persons that is col-
5 lected through the use of a pen register or trap and
6 trace device installed under this section. Such poli-
7 cies and procedures shall, to the maximum extent
8 practicable and consistent with the need to protect
9 national security, include privacy protections that
10 apply to the collection, retention, and use of infor-
11 mation concerning United States persons.

12 “(2) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to limit the au-
14 thority of the court established under section 103(a)
15 or of the Attorney General to impose additional pri-
16 vacy or minimization procedures with regard to the
17 installation or use of a pen register or trap and
18 trace device.

19 “(3) COMPLIANCE ASSESSMENT.—At or before
20 the end of the period of time for which the installa-
21 tion and use of a pen register or trap and trace de-
22 vice is approved under an order or an extension
23 under this section, the judge may assess compliance
24 with the privacy procedures required by this sub-
25 section by reviewing the circumstances under which

1 information concerning United States persons was
2 collected, retained, or disseminated.”.

3 (b) EMERGENCY AUTHORITY.—Section 403 (50
4 U.S.C. 1843) is amended by adding at the end the fol-
5 lowing new subsection:

6 “(d) PRIVACY PROCEDURES.—Information collected
7 through the use of a pen register or trap and trace device
8 installed under this section shall be subject to the policies
9 and procedures required under section 402(h).”.

10 **TITLE III—FISA ACQUISITIONS**
11 **TARGETING PERSONS OUT-**
12 **SIDE THE UNITED STATES RE-**
13 **FORMS**

14 **SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
15 **FORMATION.**

16 Section 702(i)(3) (50 U.S.C. 1881a(i)(3)) is amended
17 by adding at the end the following new subparagraph:

18 “(D) LIMITATION ON USE OF INFORMA-
19 TION.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), if the Court orders a
22 correction of a deficiency in a certification
23 or procedures under subparagraph (B), no
24 information obtained or evidence derived
25 pursuant to the part of the certification or

1 procedures that has been identified by the
2 Court as deficient concerning any United
3 States person shall be received in evidence
4 or otherwise disclosed in any trial, hearing,
5 or other proceeding in or before any court,
6 grand jury, department, office, agency,
7 regulatory body, legislative committee, or
8 other authority of the United States, a
9 State, or political subdivision thereof, and
10 no information concerning any United
11 States person acquired pursuant to such
12 part of such certification or procedures
13 shall subsequently be used or disclosed in
14 any other manner by Federal officers or
15 employees without the consent of the
16 United States person, except with the ap-
17 proval of the Attorney General if the infor-
18 mation indicates a threat of death or seri-
19 ous bodily harm to any person.

20 “(ii) EXCEPTION.—If the Government
21 corrects any deficiency identified by the
22 order of the Court under subparagraph
23 (B), the Court may permit the use or dis-
24 closure of information obtained before the
25 date of the correction under such mini-

1 mization procedures as the Court shall es-
2 tablish for purposes of this clause.”.

3 **TITLE IV—FOREIGN INTEL-**
4 **LIGENCE SURVEILLANCE**
5 **COURT REFORMS**

6 **SEC. 401. APPOINTMENT OF AMICUS CURIAE.**

7 Section 103 (50 U.S.C. 1803) is amended by adding
8 at the end the following new subsection:

9 “(i) AMICUS CURIAE.—

10 “(1) APPOINTMENT OF SPECIAL ADVOCATES.—

11 In consultation with the Privacy and Civil Liberties
12 Oversight Board, the presiding judges of the courts
13 established under subsections (a) and (b) shall, not
14 later than 180 days after the enactment of this sub-
15 section, jointly appoint not fewer than 5 attorneys to
16 serve as special advocates, who shall serve pursuant
17 to rules the presiding judges may establish. Such in-
18 dividuals shall be persons who possess expertise in
19 privacy and civil liberties, intelligence collection, tele-
20 communications, or any other relevant area of exper-
21 tise and who are determined to be eligible for access
22 to classified information necessary to participate in
23 matters before the courts.

24 “(2) AUTHORIZATION.—A court established
25 under subsection (a) or (b), consistent with the re-

1 requirement of subsection (c) and any other statutory
2 requirement that the court act expeditiously or with-
3 in a stated time—

4 “(A) shall designate a special advocate to
5 serve as *amicus curiae* to assist such court in
6 the consideration of any certification pursuant
7 to subsection (j) or any application for an order
8 or review that, in the opinion of the court, pre-
9 sents a novel or significant interpretation of the
10 law, unless the court issues a written finding
11 that such appointment is not appropriate; and

12 “(B) may designate or allow an individual
13 or organization to serve as *amicus curiae* or to
14 provide technical expertise in any other instance
15 as such court deems appropriate.

16 “(3) RULE OF CONSTRUCTION.—An application
17 for an order or review shall be considered to present
18 a novel or significant interpretation of the law if
19 such application involves application of settled law to
20 novel technologies or circumstances, or any other
21 novel or significant construction or interpretation of
22 any provision of law or of the Constitution of the
23 United States, including any novel and significant
24 interpretation of the term ‘specific selection term’.

25 “(4) DUTIES.—

1 “(A) IN GENERAL.—If a court established
2 under subsection (a) or (b) designates a special
3 advocate to participate as an amicus curiae in
4 a proceeding, the special advocate—

5 “(i) shall advocate, as appropriate, in
6 support of legal interpretations that ad-
7 vance individual privacy and civil liberties;

8 “(ii) shall have access to all relevant
9 legal precedent, and any application, cer-
10 tification, petition, motion, or such other
11 materials as are relevant to the duties of
12 the special advocate;

13 “(iii) may consult with any other spe-
14 cial advocates regarding information rel-
15 evant to any assigned case, including shar-
16 ing relevant materials; and

17 “(iv) may request that the court ap-
18 point technical and subject matter experts,
19 not employed by the Government, to be
20 available to assist the special advocate in
21 performing the duties of the special advo-
22 cate.

23 “(B) BRIEFINGS OR ACCESS TO MATE-
24 RIALS.—The Attorney General shall periodically
25 brief or provide relevant materials to special ad-

1 vocates regarding constructions and interpreta-
2 tions of this Act and legal, technological and
3 other issues related to actions authorized by
4 this Act.

5 “(C) ACCESS TO CLASSIFIED INFORMA-
6 TION.—

7 “(i) IN GENERAL.—A special advo-
8 cate, experts appointed to assist a special
9 advocate, or any other amicus or technical
10 expert appointed by the court may have ac-
11 cess to classified documents, information,
12 and other materials or proceedings only if
13 that individual is eligible for access to clas-
14 sified information and to the extent con-
15 sistent with the national security of the
16 United States.

17 “(ii) RULE OF CONSTRUCTION.—
18 Nothing in this section shall be construed
19 to require the Government to provide infor-
20 mation to a special advocate, other amicus,
21 or technical expert that is privileged from
22 disclosure.

23 “(5) NOTIFICATION.—The presiding judges of
24 the courts established under subsections (a) and (b)
25 shall notify the Attorney General of each exercise of

1 the authority to appoint an individual to serve as
2 amicus curiae under paragraph (1).

3 “(6) ASSISTANCE.—A court established under
4 subsection (a) or (b) may request and receive (in-
5 cluding on a non-reimbursable basis) the assistance
6 of the executive branch in the implementation of this
7 subsection.

8 “(7) ADMINISTRATION.—A court established
9 under subsection (a) or (b) may provide for the des-
10 ignation, appointment, removal, training, or other
11 support for an individual appointed to serve as a
12 special advocate under paragraph (1) in a manner
13 that is not inconsistent with this subsection.

14 “(j) REVIEW OF FISA COURT DECISIONS.—After
15 issuing an order, a court established under subsection (a)
16 shall certify for review to the court established under sub-
17 section (b) any question of law that the court determines
18 warrants such review because of a need for uniformity or
19 because consideration by the court established under sub-
20 section (b) would serve the interests of justice. Upon cer-
21 tification of a question of law under this paragraph, the
22 court established under subsection (b) may give binding
23 instructions or require the entire record to be sent up for
24 decision of the entire matter in controversy.

1 “(k) REVIEW OF FISA COURT OF REVIEW DECI-
2 SIONS.—

3 “(1) CERTIFICATION.—For any decision issued
4 by the court of review established under subsection
5 (b) approving, in whole or in part, an application by
6 the Government under this Act, such court may cer-
7 tify at any time, including after a decision, a ques-
8 tion of law to be reviewed by the Supreme Court of
9 the United States.

10 “(2) SPECIAL ADVOCATE BRIEFING.—Upon cer-
11 tification of an application under paragraph (1), the
12 court of review established under subsection (b) may
13 designate a special advocate to provide briefing as
14 prescribed by the Supreme Court.

15 “(3) REVIEW.—The Supreme Court may review
16 any question of law certified under paragraph (1) by
17 the court of review established under subsection (b)
18 in the same manner as the Supreme Court reviews
19 questions certified under section 1254(2) of title 28,
20 United States Code.

21 “(l) PAYMENT FOR SERVICE AS SPECIAL ADVO-
22 CATE.—A special advocate designated in a proceeding pur-
23 suant to subsection (i)(2)(A) of this section may seek, at
24 the conclusion of the proceeding in which the special advo-
25 cate was designated, compensation for services provided

1 pursuant to the designation. A special advocate seeking
2 compensation shall be compensated in an amount reflect-
3 ing fair compensation for the services provided, as deter-
4 mined by the court designating the special advocate and
5 approved by the presiding judges of the courts established
6 under subsections (a) and (b).

7 “(m) APPROPRIATIONS.—There are authorized to be
8 appropriated to the United States courts such sums as
9 may be necessary to carry out the provisions of this sec-
10 tion. When so specified in appropriation acts, such appro-
11 priations shall remain available until expended. Payments
12 from such appropriations shall be made under the super-
13 vision of the Director of the Administrative Office of the
14 United States Courts.”.

15 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**
16 **OPINIONS.**

17 (a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871
18 et seq.) is amended—

19 (1) in the heading, by striking “**REPORT-**
20 **ING REQUIREMENT**” and inserting “**OVER-**
21 **SIGHT**”; and

22 (2) by adding at the end the following new sec-
23 tion:

1 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**
2 **ORDERS, AND OPINIONS.**

3 “(a) DECLASSIFICATION REQUIRED.—Subject to
4 subsection (b), the Director of National Intelligence, in
5 consultation with the Attorney General, shall conduct a
6 declassification review of each decision, order, or opinion
7 issued by the Foreign Intelligence Surveillance Court or
8 the Foreign Intelligence Surveillance Court of Review (as
9 defined in section 601(e)) that includes a significant con-
10 struction or interpretation of law, including any novel or
11 significant construction or interpretation of the term ‘spe-
12 cific selection term’, and, consistent with that review,
13 make publicly available to the greatest extent practicable
14 each such decision, order, or opinion.

15 “(b) REDACTED FORM.—The Director of National
16 Intelligence, in consultation with the Attorney General,
17 may satisfy the requirement under subsection (a) to make
18 a decision, order, or opinion described in such subsection
19 publicly available to the greatest extent practicable by
20 making such decision, order, or opinion publicly available
21 in redacted form.

22 “(c) NATIONAL SECURITY WAIVER.—The Director of
23 National Intelligence, in consultation with the Attorney
24 General, may waive the requirement to declassify and
25 make publicly available a particular decision, order, or
26 opinion under subsection (a) if—

1 “(1) the Director of National Intelligence, in
2 consultation with the Attorney General, determines
3 that a waiver of such requirement is necessary to
4 protect the national security of the United States or
5 properly classified intelligence sources or methods;
6 and

7 “(2) the Director of National Intelligence
8 makes publicly available an unclassified statement
9 prepared by the Attorney General, in consultation
10 with the Director of National Intelligence—

11 “(A) summarizing the significant construc-
12 tion or interpretation of law, which shall in-
13 clude, to the extent consistent with national se-
14 curity, each legal question addressed by the de-
15 cision and how such question was resolved, in
16 general terms the context in which the matter
17 arises, and a description of the construction or
18 interpretation of any statute, constitutional pro-
19 vision, or other legal authority relied on by the
20 decision; and

21 “(B) that specifies that the statement has
22 been prepared by the Attorney General and
23 constitutes no part of the opinion of the For-
24 eign Intelligence Surveillance Court or the For-

1 eign Intelligence Surveillance Court of Re-
2 view.”.

3 (b) TABLE OF CONTENTS AMENDMENTS.—The table
4 of contents in the first section is amended—

5 (1) by striking the item relating to title VI and
6 inserting the following new item:

 “TITLE VI—OVERSIGHT”;

7 and

8 (2) by inserting after the item relating to sec-
9 tion 601 the following new item:

 “Sec. 602. Declassification of significant decisions, orders, and opinions.”.

10 **TITLE V—NATIONAL SECURITY**
11 **LETTER REFORM**

12 **SEC. 501. PROHIBITION ON BULK COLLECTION.**

13 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
14 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
15 of title 18, United States Code, is amended in the matter
16 preceding paragraph (1) by striking “may” and inserting
17 “may, using a term that specifically identifies a person,
18 entity, telephone number, or account as the basis for a
19 request”.

20 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
21 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
22 1114(a)(2) of the Right to Financial Privacy Act of 1978
23 (12 U.S.C. 3414(a)(2)) is amended by striking the period
24 and inserting “and a term that specifically identifies a cus-

1 tomer, entity, or account to be used as the basis for the
2 production and disclosure of financial records.”.

3 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
4 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
5 tion 626 of the Fair Credit Reporting Act (15 U.S.C.
6 1681u) is amended—

7 (1) in subsection (a), by striking “that informa-
8 tion,” and inserting “that information that includes
9 a term that specifically identifies a consumer or ac-
10 count to be used as the basis for the production of
11 that information,”;

12 (2) in subsection (b), by striking “written re-
13 quest,” and inserting “written request that includes
14 a term that specifically identifies a consumer or ac-
15 count to be used as the basis for the production of
16 that information,”; and

17 (3) in subsection (c), by inserting “, which shall
18 include a term that specifically identifies a consumer
19 or account to be used as the basis for the production
20 of the information,” after “issue an order ex parte”.

21 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES
22 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-
23 PORTS.—Section 627(a) of the Fair Credit Reporting Act
24 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”
25 and inserting “analysis and that includes a term that spe-

1 cifically identifies a consumer or account to be used as
2 the basis for the production of such information.”.

3 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**
4 **CURITY LETTERS.**

5 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
6 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of
7 title 18, United States Code, is amended by striking sub-
8 section (c) and inserting the following new subsection:

9 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

10 “(1) PROHIBITION.—

11 “(A) IN GENERAL.—If a certification is
12 issued under subparagraph (B) and notice of
13 the right to judicial review under subsection (d)
14 is provided, no wire or electronic communica-
15 tion service provider that receives a request
16 under subsection (b), or officer, employee, or
17 agent thereof, shall disclose to any person that
18 the Federal Bureau of Investigation has sought
19 or obtained access to information or records
20 under this section.

21 “(B) CERTIFICATION.—The requirements
22 of subparagraph (A) shall apply if the Director
23 of the Federal Bureau of Investigation, or a
24 designee of the Director whose rank shall be no
25 lower than Deputy Assistant Director at Bu-

1 reau headquarters or a Special Agent in Charge
2 of a Bureau field office, certifies that the ab-
3 sence of a prohibition of disclosure under this
4 subsection may result in—

5 “(i) a danger to the national security
6 of the United States;

7 “(ii) interference with a criminal,
8 counterterrorism, or counterintelligence in-
9 vestigation;

10 “(iii) interference with diplomatic re-
11 lations; or

12 “(iv) danger to the life or physical
13 safety of any person.

14 “(2) EXCEPTION.—

15 “(A) IN GENERAL.—A wire or electronic
16 communication service provider that receives a
17 request under subsection (b), or officer, em-
18 ployee, or agent thereof, may disclose informa-
19 tion otherwise subject to any applicable non-
20 disclosure requirement to—

21 “(i) those persons to whom disclosure
22 is necessary in order to comply with the re-
23 quest;

1 “(ii) an attorney in order to obtain
2 legal advice or assistance regarding the re-
3 quest; or

4 “(iii) other persons as permitted by
5 the Director of the Federal Bureau of In-
6 vestigation or the designee of the Director.

7 “(B) APPLICATION.—A person to whom
8 disclosure is made under subparagraph (A)
9 shall be subject to the nondisclosure require-
10 ments applicable to a person to whom a request
11 is issued under subsection (b) in the same man-
12 ner as the person to whom the request is
13 issued.

14 “(C) NOTICE.—Any recipient that dis-
15 closes to a person described in subparagraph
16 (A) information otherwise subject to a non-
17 disclosure requirement shall notify the person of
18 the applicable nondisclosure requirement.

19 “(D) IDENTIFICATION OF DISCLOSURE RE-
20 CIPIENTS.—At the request of the Director of
21 the Federal Bureau of Investigation or the des-
22 ignee of the Director, any person making or in-
23 tending to make a disclosure under clause (i) or
24 (iii) of subparagraph (A) shall identify to the
25 Director or such designee the person to whom

1 such disclosure will be made or to whom such
2 disclosure was made prior to the request.

3 “(3) TERMINATION.—

4 “(A) IN GENERAL.—In the case of any re-
5 quest under subsection (b) for which a recipient
6 has submitted a notification to the Government
7 under section 3511(b)(1)(A) or filed a petition
8 for judicial review under subsection (d)—

9 “(i) an appropriate official of the Fed-
10 eral Bureau of Investigation shall, until
11 termination of the nondisclosure require-
12 ment, review the facts supporting a non-
13 disclosure requirement annually and upon
14 closure of the investigation; and

15 “(ii) if, upon a review under clause
16 (i), the facts no longer support the non-
17 disclosure requirement, an appropriate offi-
18 cial of the Federal Bureau of Investigation
19 shall promptly notify the wire or electronic
20 service provider, or officer, employee, or
21 agent thereof, subject to the nondisclosure
22 requirement, and the court as appropriate,
23 that the nondisclosure requirement is no
24 longer in effect.

1 “(B) CLOSURE OF INVESTIGATION.—Upon
2 closure of the investigation—

3 “(i) the Federal Bureau of Investiga-
4 tion may petition the court before which a
5 notification or petition for judicial review
6 under subsection (d) has been filed for a
7 determination that disclosure may result in
8 the harm described in clause (i), (ii), (iii),
9 or (iv) of paragraph (1)(B), if it notifies
10 the recipient of such petition;

11 “(ii) the court shall review such a pe-
12 tition pursuant to the procedures under
13 section 3511; and

14 “(iii) if the court determines that
15 there is reason to believe that disclosure
16 may result in the harm described in clause
17 (i), (ii), (iii), or (iv) of paragraph (1)(B),
18 the Federal Bureau of Investigation shall
19 no longer be required to conduct the an-
20 nual review of the facts supporting the
21 nondisclosure requirement under subpara-
22 graph (A).”.

23 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
24 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section

1 1114 of the Right to Financial Privacy Act of 1978 (12
2 U.S.C. 3414) is amended—

3 (1) in subsection (a)(5), by striking subpara-
4 graph (D); and

5 (2) by inserting after subsection (b) the fol-
6 lowing new subsection:

7 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

8 “(1) PROHIBITION.—

9 “(A) IN GENERAL.—If a certification is
10 issued under subparagraph (B) and notice of
11 the right to judicial review under subsection (d)
12 is provided, no financial institution that receives
13 a request under subsection (a), or officer, em-
14 ployee, or agent thereof, shall disclose to any
15 person that the Federal Bureau of Investigation
16 has sought or obtained access to information or
17 records under subsection (a).

18 “(B) CERTIFICATION.—The requirements
19 of subparagraph (A) shall apply if the Director
20 of the Federal Bureau of Investigation, or a
21 designee of the Director whose rank shall be no
22 lower than Deputy Assistant Director at Bu-
23 reau headquarters or a Special Agent in Charge
24 of a Bureau field office, certifies that the ab-

1 sence of a prohibition of disclosure under this
2 subsection may result in—

3 “(i) a danger to the national security
4 of the United States;

5 “(ii) interference with a criminal,
6 counterterrorism, or counterintelligence in-
7 vestigation;

8 “(iii) interference with diplomatic re-
9 lations; or

10 “(iv) danger to the life or physical
11 safety of any person.

12 “(Z) EXCEPTION.—

13 “(A) IN GENERAL.—A financial institution
14 that receives a request under subsection (a), or
15 officer, employee, or agent thereof, may disclose
16 information otherwise subject to any applicable
17 nondisclosure requirement to—

18 “(i) those persons to whom disclosure
19 is necessary in order to comply with the re-
20 quest;

21 “(ii) an attorney in order to obtain
22 legal advice or assistance regarding the re-
23 quest; or

1 “(iii) other persons as permitted by
2 the Director of the Federal Bureau of In-
3 vestigation or the designee of the Director.

4 “(B) APPLICATION.—A person to whom
5 disclosure is made under subparagraph (A)
6 shall be subject to the nondisclosure require-
7 ments applicable to a person to whom a request
8 is issued under subsection (a) in the same man-
9 ner as the person to whom the request is
10 issued.

11 “(C) NOTICE.—Any recipient that dis-
12 closes to a person described in subparagraph
13 (A) information otherwise subject to a non-
14 disclosure requirement shall inform the person
15 of the applicable nondisclosure requirement.

16 “(D) IDENTIFICATION OF DISCLOSURE RE-
17 CIPIENTS.—At the request of the Director of
18 the Federal Bureau of Investigation or the des-
19 ignee of the Director, any person making or in-
20 tending to make a disclosure under clause (i) or
21 (iii) of subparagraph (A) shall identify to the
22 Director or such designee the person to whom
23 such disclosure will be made or to whom such
24 disclosure was made prior to the request.

25 “(3) TERMINATION.—

1 “(A) IN GENERAL.—In the case of any re-
2 quest under subsection (a) for which a recipient
3 has submitted a notification to the Government
4 under section 3511(b)(1)(A) of title 18, United
5 States Code, or filed a petition for judicial re-
6 view under subsection (d)—

7 “(i) an appropriate official of the Fed-
8 eral Bureau of Investigation shall, until
9 termination of the nondisclosure require-
10 ment, review the facts supporting a non-
11 disclosure requirement annually and upon
12 closure of the investigation; and

13 “(ii) if, upon a review under clause
14 (i), the facts no longer support the non-
15 disclosure requirement, an appropriate offi-
16 cial of the Federal Bureau of Investigation
17 shall promptly notify the financial institu-
18 tion, or officer, employee, or agent thereof,
19 subject to the nondisclosure requirement,
20 and the court as appropriate, that the non-
21 disclosure requirement is no longer in ef-
22 fect.

23 “(B) CLOSURE OF INVESTIGATION.—Upon
24 closure of the investigation—

1 “(i) the Federal Bureau of Investiga-
2 tion may petition the court before which a
3 notification or petition for judicial review
4 under subsection (d) has been filed for a
5 determination that disclosure may result in
6 the harm described in clause (i), (ii), (iii),
7 or (iv) of paragraph (1)(B), if it notifies
8 the recipient of such petition;

9 “(ii) the court shall review such a pe-
10 tition pursuant to the procedures under
11 section 3511 of title 18, United States
12 Code; and

13 “(iii) if the court determines that
14 there is reason to believe that disclosure
15 may result in the harm described in clause
16 (i), (ii), (iii), or (iv) of paragraph (1)(B),
17 the Federal Bureau of Investigation shall
18 no longer be required to conduct the an-
19 nual review of the facts supporting the
20 nondisclosure requirement under subpara-
21 graph (A).”.

22 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
23 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
24 porting Act (15 U.S.C. 1681u) is amended by striking
25 subsection (d) and inserting the following new subsection:

1 “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

2 “(1) PROHIBITION.—

3 “(A) IN GENERAL.—If a certification is
4 issued under subparagraph (B) and notice of
5 the right to judicial review under subsection (e)
6 is provided, no consumer reporting agency that
7 receives a request under subsection (a) or (b) or
8 an order under subsection (c), or officer, em-
9 ployee, or agent thereof, shall disclose or specify
10 in any consumer report, that the Federal Bu-
11 reau of Investigation has sought or obtained ac-
12 cess to information or records under subsection
13 (a), (b), or (c).

14 “(B) CERTIFICATION.—The requirements
15 of subparagraph (A) shall apply if the Director
16 of the Federal Bureau of Investigation, or a
17 designee of the Director whose rank shall be no
18 lower than Deputy Assistant Director at Bu-
19 reau headquarters or a Special Agent in Charge
20 of a Bureau field office, certifies that the ab-
21 sence of a prohibition of disclosure under this
22 subsection may result in—

23 “(i) a danger to the national security
24 of the United States;

1 “(ii) interference with a criminal,
2 counterterrorism, or counterintelligence in-
3 vestigation;

4 “(iii) interference with diplomatic re-
5 lations; or

6 “(iv) danger to the life or physical
7 safety of any person.

8 “(2) EXCEPTION.—

9 “(A) IN GENERAL.—A consumer reporting
10 agency that receives a request under subsection
11 (a) or (b) or an order under subsection (c), or
12 officer, employee, or agent thereof, may disclose
13 information otherwise subject to any applicable
14 nondisclosure requirement to—

15 “(i) those persons to whom disclosure
16 is necessary in order to comply with the re-
17 quest;

18 “(ii) an attorney in order to obtain
19 legal advice or assistance regarding the re-
20 quest; or

21 “(iii) other persons as permitted by
22 the Director of the Federal Bureau of In-
23 vestigation or the designee of the Director.

24 “(B) APPLICATION.—A person to whom
25 disclosure is made under subparagraph (A)

1 shall be subject to the nondisclosure require-
2 ments applicable to a person to whom a request
3 under subsection (a) or (b) or an order under
4 subsection (c) is issued in the same manner as
5 the person to whom the request is issued.

6 “(C) NOTICE.—Any recipient that dis-
7 closes to a person described in subparagraph
8 (A) information otherwise subject to a non-
9 disclosure requirement shall inform the person
10 of the applicable nondisclosure requirement.

11 “(D) IDENTIFICATION OF DISCLOSURE RE-
12 CIPIENTS.—At the request of the Director of
13 the Federal Bureau of Investigation or the des-
14 ignee of the Director, any person making or in-
15 tending to make a disclosure under clause (i) or
16 (iii) of subparagraph (A) shall identify to the
17 Director or such designee the person to whom
18 such disclosure will be made or to whom such
19 disclosure was made prior to the request.

20 “(3) TERMINATION.—

21 “(A) IN GENERAL.—In the case of any re-
22 quest under subsection (a) or (b) or order
23 under subsection (c) for which a recipient has
24 submitted a notification to the Government
25 under section 3511(b)(1)(A) of title 18, United

1 States Code, or filed a petition for judicial re-
2 view under subsection (e)—

3 “(i) an appropriate official of the Fed-
4 eral Bureau of Investigation shall, until
5 termination of the nondisclosure require-
6 ment, review the facts supporting a non-
7 disclosure requirement annually and upon
8 closure of the investigation; and

9 “(ii) if, upon a review under clause
10 (i), the facts no longer support the non-
11 disclosure requirement, an appropriate offi-
12 cial of the Federal Bureau of Investigation
13 shall promptly notify the consumer report-
14 ing agency, or officer, employee, or agent
15 thereof, subject to the nondisclosure re-
16 quirement, and the court as appropriate,
17 that the nondisclosure requirement is no
18 longer in effect.

19 “(B) CLOSURE OF INVESTIGATION.—Upon
20 closure of the investigation—

21 “(i) the Federal Bureau of Investiga-
22 tion may petition the court before which a
23 notification or petition for judicial review
24 under subsection (e) has been filed for a
25 determination that disclosure may result in

1 the harm described in clause (i), (ii), (iii),
2 or (iv) of paragraph (1)(B), if it notifies
3 the recipient of such petition;

4 “(ii) the court shall review such a pe-
5 tition pursuant to the procedures under
6 section 3511 of title 18, United States
7 Code; and

8 “(iii) if the court determines that
9 there is reason to believe that disclosure
10 may result in the harm described in clause
11 (i), (ii), (iii), or (iv) of paragraph (1)(B),
12 the Federal Bureau of Investigation shall
13 no longer be required to conduct the an-
14 nual review of the facts supporting the
15 nondisclosure requirement under subpara-
16 graph (A).”.

17 (d) CONSUMER REPORTS.—Section 627 of the Fair
18 Credit Reporting Act (15 U.S.C. 1681v) is amended by
19 striking subsection (c) and inserting the following new
20 subsection:

21 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

22 “(1) PROHIBITION.—

23 “(A) IN GENERAL.—If a certification is
24 issued under subparagraph (B) and notice of
25 the right to judicial review under subsection (d)

1 is provided, no consumer reporting agency that
2 receives a request under subsection (a), or offi-
3 cer, employee, or agent thereof, shall disclose or
4 specify in any consumer report, that a govern-
5 ment agency described in subsection (a) has
6 sought or obtained access to information or
7 records under subsection (a).

8 “(B) CERTIFICATION.—The requirements
9 of subparagraph (A) shall apply if the head of
10 the government agency described in subsection
11 (a), or a designee, certifies that the absence of
12 a prohibition of disclosure under this subsection
13 may result in—

14 “(i) a danger to the national security
15 of the United States;

16 “(ii) interference with a criminal,
17 counterterrorism, or counterintelligence in-
18 vestigation;

19 “(iii) interference with diplomatic re-
20 lations; or

21 “(iv) danger to the life or physical
22 safety of any person.

23 “(2) EXCEPTION.—

24 “(A) IN GENERAL.—A consumer reporting
25 agency that receives a request under subsection

1 (a), or officer, employee, or agent thereof, may
2 disclose information otherwise subject to any
3 applicable nondisclosure requirement to—

4 “(i) those persons to whom disclosure
5 is necessary in order to comply with the re-
6 quest;

7 “(ii) an attorney in order to obtain
8 legal advice or assistance regarding the re-
9 quest; or

10 “(iii) other persons as permitted by
11 the head of the government agency de-
12 scribed in subsection (a) or a designee.

13 “(B) APPLICATION.—A person to whom
14 disclosure is made under subparagraph (A)
15 shall be subject to the nondisclosure require-
16 ments applicable to a person to whom a request
17 under subsection (a) is issued in the same man-
18 ner as the person to whom the request is
19 issued.

20 “(C) NOTICE.—Any recipient that dis-
21 closes to a person described in subparagraph
22 (A) information otherwise subject to a non-
23 disclosure requirement shall inform the person
24 of the applicable nondisclosure requirement.

1 “(D) IDENTIFICATION OF DISCLOSURE RE-
2 CIPIENTS.—At the request of the head of the
3 government agency described in subsection (a)
4 or a designee, any person making or intending
5 to make a disclosure under clause (i) or (iii) of
6 subparagraph (A) shall identify to the head or
7 such designee the person to whom such disclo-
8 sure will be made or to whom such disclosure
9 was made prior to the request.

10 “(3) TERMINATION.—

11 “(A) IN GENERAL.—In the case of any re-
12 quest under subsection (a) for which a recipient
13 has submitted a notification to the Government
14 under section 3511(b)(1)(A) of title 18, United
15 States Code, or filed a petition for judicial re-
16 view under subsection (d)—

17 “(i) an appropriate official of the
18 agency described in subsection (a) shall,
19 until termination of the nondisclosure re-
20 quirement, review the facts supporting a
21 nondisclosure requirement annually and
22 upon closure of the investigation; and

23 “(ii) if, upon a review under clause
24 (i), the facts no longer support the non-
25 disclosure requirement, an appropriate offi-

1 cial of the agency described in subsection
2 (a) shall promptly notify the consumer re-
3 porting agency, or officer, employee, or
4 agent thereof, subject to the nondisclosure
5 requirement, and the court as appropriate,
6 that the nondisclosure requirement is no
7 longer in effect.

8 “(B) CLOSURE OF INVESTIGATION.—Upon
9 closure of the investigation—

10 “(i) the agency described in sub-
11 section (a) may petition the court before
12 which a notification or petition for judicial
13 review under subsection (d) has been filed
14 for a determination that disclosure may re-
15 sult in the harm described in clause (i),
16 (ii), (iii), or (iv) of paragraph (1)(B), if it
17 notifies the recipient of such petition;

18 “(ii) the court shall review such a pe-
19 tition pursuant to the procedures under
20 section 3511 of title 18, United States
21 Code; and

22 “(iii) if the court determines that
23 there is reason to believe that disclosure
24 may result in the harm described in clause
25 (i), (ii), (iii), or (iv) of paragraph (1)(B),

1 the agency described in subsection (1) shall
2 no longer be required to conduct the an-
3 nual review of the facts supporting the
4 nondisclosure requirement under subpara-
5 graph (A).”.

6 (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO
7 CLASSIFIED INFORMATION.—Section 802 of the National
8 Security Act of 1947 (50 U.S.C. 3162) is amended by
9 striking subsection (b) and inserting the following new
10 subsection:

11 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

12 “(1) PROHIBITION.—

13 “(A) IN GENERAL.—If a certification is
14 issued under subparagraph (B) and notice of
15 the right to judicial review under subsection (c)
16 is provided, no governmental or private entity
17 that receives a request under subsection (a), or
18 officer, employee, or agent thereof, shall dis-
19 close to any person that an authorized inves-
20 tigative agency described in subsection (a) has
21 sought or obtained access to information under
22 subsection (a).

23 “(B) CERTIFICATION.—The requirements
24 of subparagraph (A) shall apply if the head of
25 an authorized investigative agency described in

1 subsection (a), or a designee, certifies that the
2 absence of a prohibition of disclosure under this
3 subsection may result in—

4 “(i) a danger to the national security
5 of the United States;

6 “(ii) interference with a criminal,
7 counterterrorism, or counterintelligence in-
8 vestigation;

9 “(iii) interference with diplomatic re-
10 lations; or

11 “(iv) danger to the life or physical
12 safety of any person.

13 “(2) EXCEPTION.—

14 “(A) IN GENERAL.—A governmental or
15 private entity that receives a request under sub-
16 section (a), or officer, employee, or agent there-
17 of, may disclose information otherwise subject
18 to any applicable nondisclosure requirement
19 to—

20 “(i) those persons to whom disclosure
21 is necessary in order to comply with the re-
22 quest;

23 “(ii) an attorney in order to obtain
24 legal advice or assistance regarding the re-
25 quest; or

1 “(iii) other persons as permitted by
2 the head of the authorized investigative
3 agency described in subsection (a) or a
4 designee.

5 “(B) APPLICATION.—A person to whom
6 disclosure is made under subparagraph (A)
7 shall be subject to the nondisclosure require-
8 ments applicable to a person to whom a request
9 is issued under subsection (a) in the same man-
10 ner as the person to whom the request is
11 issued.

12 “(C) NOTICE.—Any recipient that dis-
13 closes to a person described in subparagraph
14 (A) information otherwise subject to a non-
15 disclosure requirement shall inform the person
16 of the applicable nondisclosure requirement.

17 “(D) IDENTIFICATION OF DISCLOSURE RE-
18 CIPIENTS.—At the request of the head of an
19 authorized investigative agency described in
20 subsection (a), or a designee, any person mak-
21 ing or intending to make a disclosure under
22 clause (i) or (iii) of subparagraph (A) shall
23 identify to the head of the authorized investiga-
24 tive agency or such designee the person to

1 whom such disclosure will be made or to whom
2 such disclosure was made prior to the request.

3 “(3) TERMINATION.—

4 “(A) IN GENERAL.—In the case of any re-
5 quest for which a recipient has submitted a no-
6 tification to the Government under section
7 3511(b)(1)(A) of title 18, United States Code,
8 or filed a petition for judicial review under sub-
9 section (c)—

10 “(i) an appropriate official of the au-
11 thorized investigative agency making the
12 request under subsection (a) shall, until
13 termination of the nondisclosure require-
14 ment, review the facts supporting a non-
15 disclosure requirement annually and upon
16 closure of the investigation; and

17 “(ii) if, upon a review under clause
18 (i), the facts no longer support the non-
19 disclosure requirement, an appropriate offi-
20 cial of the authorized investigative agency
21 making the request under subsection (a)
22 shall promptly notify the recipient of the
23 request, or officer, employee, or agent
24 thereof, subject to the nondisclosure re-
25 quirement, and the court as appropriate,

1 disclosure requirement under subparagraph
2 (A).”.

3 (f) JUDICIAL REVIEW.—Section 3511 of title 18,
4 United States Code, is amended by striking subsection (b)
5 and inserting the following new subsection:

6 “(b) NONDISCLOSURE.—

7 “(1) IN GENERAL.—

8 “(A) NOTICE.—If a recipient of a request
9 or order for a report, records, or other informa-
10 tion under section 2709 of this title, section
11 626 or 627 of the Fair Credit Reporting Act
12 (15 U.S.C. 1681u and 1681v), section 1114 of
13 the Right to Financial Privacy Act of 1978 (12
14 U.S.C. 3414), or section 802 of the National
15 Security Act of 1947 (50 U.S.C. 3162), wishes
16 to have a court review a nondisclosure require-
17 ment imposed in connection with the request or
18 order, the recipient may notify the Government
19 or file a petition for judicial review in any court
20 described in subsection (a).

21 “(B) APPLICATION.—Not later than 30
22 days after the date of receipt of a notification
23 under subparagraph (A), the Government shall
24 apply for an order prohibiting the disclosure of
25 the existence or contents of the relevant request

1 or order. An application under this subpara-
2 graph may be filed in the district court of the
3 United States for the judicial district in which
4 the recipient of the order is doing business or
5 in the district court of the United States for
6 any judicial district within which the authorized
7 investigation that is the basis for the request is
8 being conducted. The applicable nondisclosure
9 requirement shall remain in effect during the
10 pendency of proceedings relating to the require-
11 ment.

12 “(C) CONSIDERATION.—A district court of
13 the United States that receives a petition under
14 subparagraph (A) or an application under sub-
15 paragraph (B) should rule expeditiously, and
16 shall, subject to paragraph (3), issue a non-
17 disclosure order that includes conditions appro-
18 priate to the circumstances.

19 “(2) APPLICATION CONTENTS.—An application
20 for a nondisclosure order or extension thereof or a
21 response to a petition filed under paragraph (1)
22 shall include a certification from the Attorney Gen-
23 eral, Deputy Attorney General, an Assistant Attor-
24 ney General, or the Director of the Federal Bureau
25 of Investigation, or a designee in a position not

1 lower than Deputy Assistant Director at Bureau
2 headquarters or a Special Agent in Charge in a Bu-
3 reau field office designated by the Director, or in the
4 case of a request by a department, agency, or instru-
5 mentality of the Federal Government other than the
6 Department of Justice, the head or deputy head of
7 the department, agency, or instrumentality, con-
8 taining a statement of specific facts indicating that
9 the absence of a prohibition of disclosure under this
10 subsection may result in—

11 “(A) a danger to the national security of
12 the United States;

13 “(B) interference with a criminal, counter-
14 terrorism, or counterintelligence investigation;

15 “(C) interference with diplomatic relations;

16 or

17 “(D) danger to the life or physical safety
18 of any person.

19 “(3) STANDARD.—A district court of the
20 United States shall issue a nondisclosure order or
21 extension thereof under this subsection if the court
22 determines that there is reason to believe that disclo-
23 sure of the information subject to the nondisclosure
24 requirement during the applicable time period may
25 result in—

1 “(A) a danger to the national security of
2 the United States;

3 “(B) interference with a criminal, counter-
4 terrorism, or counterintelligence investigation;

5 “(C) interference with diplomatic relations;

6 or

7 “(D) danger to the life or physical safety
8 of any person.”.

9 **SEC. 503. JUDICIAL REVIEW.**

10 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
11 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of
12 title 18, United States Code, is amended—

13 (1) by redesignating subsections (d), (e), and
14 (f) as subsections (e), (f), and (g), respectively; and

15 (2) by inserting after subsection (c) the fol-
16 lowing new subsection:

17 “(d) JUDICIAL REVIEW.—

18 “(1) IN GENERAL.—A request under subsection
19 (b) or a nondisclosure requirement imposed in con-
20 nection with such request under subsection (c) shall
21 be subject to judicial review under section 3511.

22 “(2) NOTICE.—A request under subsection (b)
23 shall include notice of the availability of judicial re-
24 view described in paragraph (1).”.

1 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
2 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
3 1114 of the Right to Financial Privacy Act of 1978 (12
4 U.S.C. 3414) is amended—

5 (1) by redesignating subsection (d) as sub-
6 section (e); and

7 (2) by inserting after subsection (c) the fol-
8 lowing new subsection:

9 “(d) JUDICIAL REVIEW.—

10 “(1) IN GENERAL.—A request under subsection
11 (a) or a nondisclosure requirement imposed in con-
12 nection with such request under subsection (c) shall
13 be subject to judicial review under section 3511 of
14 title 18, United States Code.

15 “(2) NOTICE.—A request under subsection (a)
16 shall include notice of the availability of judicial re-
17 view described in paragraph (1).”.

18 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
19 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
20 porting Act (15 U.S.C. 1681u) is amended—

21 (1) by redesignating subsections (e) through
22 (m) as subsections (f) through (n), respectively; and

23 (2) by inserting after subsection (d) the fol-
24 lowing new subsection:

25 “(e) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—A request under subsection
2 (a) or (b) or an order under subsection (c) or a non-
3 disclosure requirement imposed in connection with
4 such request under subsection (d) shall be subject to
5 judicial review under section 3511 of title 18, United
6 States Code.

7 “(2) NOTICE.—A request under subsection (a)
8 or (b) or an order under subsection (c) shall include
9 notice of the availability of judicial review described
10 in paragraph (1).”.

11 (d) IDENTITY OF FINANCIAL INSTITUTIONS AND
12 CREDIT REPORTS.—Section 627 of the Fair Credit Re-
13 porting Act (15 U.S.C. 1681v) is amended—

14 (1) by redesignating subsections (d), (e), and
15 (f) as subsections (e), (f), and (g), respectively; and

16 (2) by inserting after subsection (c) the fol-
17 lowing new subsection:

18 “(d) JUDICIAL REVIEW.—

19 “(1) IN GENERAL.—A request under subsection
20 (a) or a non-disclosure requirement imposed in con-
21 nection with such request under subsection (c) shall
22 be subject to judicial review under section 3511 of
23 title 18, United States Code.

1 “(2) NOTICE.—A request under subsection (a)
2 shall include notice of the availability of judicial re-
3 view described in paragraph (1).”.

4 (e) INVESTIGATIONS OF PERSONS WITH ACCESS TO
5 CLASSIFIED INFORMATION.—Section 802 of the National
6 Security Act of 1947 (50 U.S.C. 3162) is amended—

7 (1) by redesignating subsections (e) through (f)
8 as subsections (d) through (g), respectively; and

9 (2) by inserting after subsection (b) the fol-
10 lowing new subsection:

11 “(c) JUDICIAL REVIEW.—

12 “(1) IN GENERAL.—A request under subsection
13 (a) or a nondisclosure requirement imposed in con-
14 nection with such request under subsection (b) shall
15 be subject to judicial review under section 3511 of
16 title 18, United States Code.

17 “(2) NOTICE.—A request under subsection (a)
18 shall include notice of the availability of judicial re-
19 view described in paragraph (1).”.

1 **TITLE VI—FISA TRANSPARENCY**
2 **AND REPORTING REQUIRE-**
3 **MENTS**

4 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**
5 **PRODUCTION OF BUSINESS RECORDS; BUSI-**
6 **NESS RECORDS COMPLIANCE REPORTS TO**
7 **CONGRESS.**

8 Section 502(b) (50 U.S.C. 1862(b)) is amended—

9 (1) by redesignating paragraphs (1), (2), and
10 (3) as paragraphs (6), (7), and (8), respectively; and

11 (2) by inserting before paragraph (6) (as so re-
12 designated) the following new paragraphs:

13 “(1) a summary of all compliance reviews con-
14 ducted by the Government for the production of tan-
15 gible things under section 501;

16 “(2) the total number of applications described
17 in section 501(b)(2)(B) made for orders approving
18 requests for the production of tangible things;

19 “(3) the total number of such orders either
20 granted, modified, or denied;

21 “(4) the total number of applications described
22 in section 501(b)(2)(C) made for orders approving
23 requests for the production of call detail records;

24 “(5) the total number of such orders either
25 granted, modified, or denied;”.

1 **SEC. 602. ANNUAL REPORTS BY THE GOVERNMENT.**

2 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
3 as amended by section 402 of this Act, is further amended
4 by adding at the end the following new section:

5 **“SEC. 603. ANNUAL REPORTS.**

6 “(a) REPORT BY DIRECTOR OF THE ADMINISTRA-
7 TIVE OFFICE OF THE UNITED STATES COURTS.—The Di-
8 rector of the Administrative Office of the United States
9 Courts shall annually submit to the Permanent Select
10 Committee on Intelligence and the Committee on the Judi-
11 ciary of the House of Representatives and the Select Com-
12 mittee on Intelligence and the Committee on the Judiciary
13 of the Senate, subject to a declassification review by the
14 Attorney General and the Director of National Intel-
15 ligence, a report, made publicly available on an Internet
16 Web site, that includes—

17 “(1) the number of applications or certifications
18 for orders submitted under each of sections 105,
19 304, 402, 501, 702, 703, and 704;

20 “(2) the number of orders entered under each
21 of those sections;

22 “(3) the number of orders modified under each
23 of those sections;

24 “(4) the number of orders denied under each of
25 those sections;

1 “(5) the number of appointments of an indi-
2 vidual to serve as amicus curiae under section 103,
3 including the name of each individual appointed to
4 serve as amicus curiae; and

5 “(6) the number of written findings issued
6 under section 103(i) that such appointment is not
7 appropriate and the text of any such written find-
8 ings.

9 “(b) MANDATORY REPORTING BY DIRECTOR OF NA-
10 TIONAL INTELLIGENCE.—

11 “(1) IN GENERAL.—Except as provided in sub-
12 section (e), the Director of National Intelligence
13 shall annually make publicly available on an Internet
14 Web site a report that identifies, for the preceding
15 12-month period—

16 “(A) the total number of orders issued
17 pursuant to titles I and III and sections 703
18 and 704 and a good faith estimate of the num-
19 ber of targets of such orders;

20 “(B) the total number of orders issued
21 pursuant to section 702 and a good faith esti-
22 mate of—

23 “(i) the number of targets of such or-
24 ders;

1 “(ii) the number of individuals whose
2 communications were collected pursuant to
3 such orders;

4 “(iii) the number of individuals whose
5 communications were collected pursuant to
6 such orders who are reasonably believed to
7 have been located in the United States at
8 the time of collection;

9 “(iv) the number of search terms that
10 included information concerning a United
11 States person that were used to query any
12 database of the contents of electronic com-
13 munications or wire communications ob-
14 tained through the use of an order issued
15 pursuant to section 702; and

16 “(v) the number of search queries ini-
17 tiated by an officer, employee, or agent of
18 the United States whose search terms in-
19 cluded information concerning a United
20 States person in any database of noncon-
21 tents information relating to electronic
22 communications or wire communications
23 that were obtained through the use of an
24 order issued pursuant to section 702;

1 “(C) the total number of orders issued
2 pursuant to title IV and a good faith estimate
3 of—

4 “(i) the number of targets of such or-
5 ders;

6 “(ii) the number of individuals whose
7 communications were collected pursuant to
8 such orders; and

9 “(iii) the number of individuals whose
10 communications were collected pursuant to
11 such orders who are reasonably believed to
12 have been located in the United States at
13 the time of collection;

14 “(D) the total number of orders issued
15 pursuant to applications made under section
16 501(b)(2)(B) and a good faith estimate of—

17 “(i) the number of targets of such or-
18 ders;

19 “(ii) the number of individuals whose
20 communications were collected pursuant to
21 such orders; and

22 “(iii) the number of individuals whose
23 communications were collected pursuant to
24 such orders who are reasonably believed to

1 have been located in the United States at
2 the time of collection;

3 “(E) the total number of orders issued
4 pursuant to applications made under section
5 501(b)(2)(C) and a good faith estimate of—

6 “(i) the number of targets of such or-
7 ders;

8 “(ii) the number of individuals whose
9 communications were collected pursuant to
10 such orders;

11 “(iii) the number of individuals whose
12 communications were collected pursuant to
13 such orders who are reasonably believed to
14 have been located in the United States at
15 the time of collection; and

16 “(iv) the number of search terms that
17 included information concerning a United
18 States person that were used to query any
19 database of call detail records obtained
20 through the use of such orders; and

21 “(F) the total number of national security
22 letters issued and the number of requests for
23 information contained within such national se-
24 curity letters.

1 “(2) BASIS FOR REASONABLE BELIEF INDI-
2 VIDUAL IS LOCATED IN UNITED STATES.—A phone
3 number registered in the United States may provide
4 the basis for a reasonable belief that the individual
5 using the phone number is located in the United
6 States at the time of collection.

7 “(c) DISCRETIONARY REPORTING BY DIRECTOR OF
8 NATIONAL INTELLIGENCE.—The Director of National In-
9 telligence may annually make publicly available on an
10 Internet Web site a report that identifies, for the pre-
11 ceding 12-month period—

12 “(1) a good faith estimate of the number of in-
13 dividuals whose communications were collected pur-
14 suant to orders issued pursuant to titles I and III
15 and sections 703 and 704 reasonably believed to
16 have been located in the United States at the time
17 of collection whose information was reviewed or
18 accessed by an officer, employee, or agent of the
19 United States;

20 “(2) a good faith estimate of the number of in-
21 dividuals whose communications were collected pur-
22 suant to orders issued pursuant to section 702 rea-
23 sonably believed to have been located in the United
24 States at the time of collection whose information

1 was reviewed or accessed by an officer, employee, or
2 agent of the United States;

3 “(3) a good faith estimate of the number of in-
4 dividuals whose communications were collected pur-
5 suant to orders issued pursuant to title IV reason-
6 ably believed to have been located in the United
7 States at the time of collection whose information
8 was reviewed or accessed by an officer, employee, or
9 agent of the United States;

10 “(4) a good faith estimate of the number of in-
11 dividuals whose communications were collected pur-
12 suant to orders issued pursuant to applications
13 made under section 501(b)(2)(B) reasonably believed
14 to have been located in the United States at the
15 time of collection whose information was reviewed or
16 accessed by an officer, employee, or agent of the
17 United States; and

18 “(5) a good faith estimate of the number of in-
19 dividuals whose communications were collected pur-
20 suant to orders issued pursuant to applications
21 made under section 501(b)(2)(C) reasonably believed
22 to have been located in the United States at the
23 time of collection whose information was reviewed or
24 accessed by an officer, employee, or agent of the
25 United States.

1 “(d) TIMING.—The annual reports required by sub-
2 sections (a) and (b) and permitted by subsection (c) shall
3 be made publicly available during April of each year and
4 include information relating to the previous year.

5 “(e) EXCEPTIONS.—

6 “(1) REPORTING BY UNIQUE IDENTIFIER.—If it
7 is not practicable to report the good faith estimates
8 required by subsection (b) and permitted by sub-
9 section (c) in terms of individuals, the good faith es-
10 timates may be counted in terms of unique identi-
11 fiers, including names, account names or numbers,
12 addresses, or telephone or instrument numbers.

13 “(2) STATEMENT OF NUMERICAL RANGE.—If a
14 good faith estimate required to be reported under
15 clauses (ii) or (iii) of each of subparagraphs (B),
16 (C), (D), and (E) of paragraph (1) of subsection (b)
17 or permitted to be reported in subsection (c), is
18 fewer than 500, it shall exclusively be expressed as
19 a numerical range of ‘fewer than 500’ and shall not
20 be expressed as an individual number.

21 “(3) FEDERAL BUREAU OF INVESTIGATION.—
22 Subparagraphs (B)(iv), (B)(v), (D)(iii), (E)(iii), and
23 (E)(iv) of paragraph (1) of subsection (b) shall not
24 apply to information or records held by, or queries
25 conducted by, the Federal Bureau of Investigation.

1 “(4) CERTIFICATION.—

2 “(A) IN GENERAL.—If the Director of Na-
3 tional Intelligence concludes that a good faith
4 estimate required to be reported under subpara-
5 graph (B)(iii) or (C)(iii) of paragraph (1) of
6 subsection (b) cannot be determined accurately,
7 including through the use of statistical sam-
8 pling, the Director shall—

9 “(i) certify that conclusion in writing
10 to the Permanent Select Committee on In-
11 telligence and the Committee on the Judi-
12 ciary of the House of Representatives and
13 the Select Committee on Intelligence and
14 the Committee on the Judiciary of the
15 Senate; and

16 “(ii) make such certification publicly
17 available on an Internet Web site.

18 “(B) CONTENT.—

19 “(i) IN GENERAL.—The certification
20 described in subparagraph (A) shall state
21 with specificity any operational, national
22 security, or other reasons why the Director
23 of National Intelligence has reached the
24 conclusion described in subparagraph (A).

1 “(ii) GOOD FAITH ESTIMATES OF CER-
2 TAIN INDIVIDUALS WHOSE COMMUNICA-
3 TIONS WERE COLLECTED UNDER ORDERS
4 ISSUED UNDER SECTION 702.—A certifi-
5 cation described in subparagraph (A) relat-
6 ing to a good faith estimate required to be
7 reported under subsection (b)(1)(B)(iii)
8 may include the information annually re-
9 ported pursuant to section 702(l)(3)(A).

10 “(iii) GOOD FAITH ESTIMATES OF
11 CERTAIN INDIVIDUALS WHOSE COMMU-
12 NICATIONS WERE COLLECTED UNDER OR-
13 DERS ISSUED UNDER TITLE IV.—If the Di-
14 rector of National Intelligence determines
15 that a good faith estimate required to be
16 reported under subsection (b)(1)(C)(iii)
17 cannot be determined accurately as that
18 estimate pertains to electronic communica-
19 tions, but can be determined accurately for
20 wire communications, the Director shall
21 make the certification described in sub-
22 paragraph (A) with respect to electronic
23 communications and shall also report the
24 good faith estimate with respect to wire
25 communications.

1 “(C) FORM.—A certification described in
2 subparagraph (A) shall be prepared in unclassi-
3 fied form, but may contain a classified annex.

4 “(D) TIMING.—If the Director of National
5 Intelligence continues to conclude that the good
6 faith estimates described in this paragraph can-
7 not be determined accurately, the Director shall
8 annually submit a certification in accordance
9 with this paragraph.

10 “(f) CONSTRUCTION.—Nothing in this section affects
11 the lawfulness or unlawfulness of any government surveil-
12 lance activities described herein.

13 “(g) DEFINITIONS.—In this section:

14 “(1) CONTENTS.—The term ‘contents’ has the
15 meaning given that term under section 2510 of title
16 18, United States Code.

17 “(2) ELECTRONIC COMMUNICATION.—The term
18 ‘electronic communication’ has the meaning given
19 that term under section 2510 of title 18, United
20 States Code.

21 “(3) INDIVIDUAL WHOSE COMMUNICATIONS
22 WERE COLLECTED.—The term ‘individual whose
23 communications were collected’ means any indi-
24 vidual—

1 “(A) who was a party to an electronic com-
2 munication or a wire communication the con-
3 tents or noncontents of which was collected; or

4 “(B)(i) who was a subscriber or customer
5 of an electronic communication service or re-
6 mote computing service; and

7 “(ii) whose records, as described in sub-
8 paragraph (A), (B), (D), (E), or (F) of section
9 2703(c)(2) of title 18, United States Code, were
10 collected.

11 “(4) NATIONAL SECURITY LETTER.—The term
12 ‘national security letter’ means a request for a re-
13 port, records, or other information under—

14 “(A) section 2709 of title 18, United
15 States Code;

16 “(B) section 1114(a)(5)(A) of the Right to
17 Financial Privacy Act of 1978 (12 U.S.C.
18 3414(a)(5)(A));

19 “(C) subsection (a) or (b) of section 626 of
20 the Fair Credit Reporting Act (15 U.S.C.
21 1681u(a), 1681u(b)); or

22 “(D) section 627(a) of the Fair Credit Re-
23 porting Act (15 U.S.C. 1681v(a)).

24 “(5) UNITED STATES PERSON.—The term
25 ‘United States person’ means a citizen of the United

1 States or an alien lawfully admitted for permanent
2 residence (as defined in section 101(a) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1101(a))).

4 “(6) WIRE COMMUNICATION.—The term ‘wire
5 communication’ has the meaning given that term
6 under section 2510 of title 18, United States
7 Code.”.

8 (b) TABLE OF CONTENTS AMENDMENT.—The table
9 of contents, as amended by section 402 of this Act, is fur-
10 ther amended by inserting after the item relating to sec-
11 tion 602, as added by section 402 of this Act, the following
12 new item:

“Sec. 603. Annual reports.”.

13 (c) PUBLIC REPORTING ON NATIONAL SECURITY
14 LETTERS.—Section 118(c) of the USA PATRIOT Im-
15 provement and Reauthorization Act of 2005 (18 U.S.C.
16 3511 note) is amended—

17 (1) in paragraph (1)—

18 (A) in the matter preceding subparagraph
19 (A), by striking “concerning different United
20 States persons”; and

21 (B) in subparagraph (A), by striking “, ex-
22 cluding the number of requests for subscriber
23 information”;

24 (2) by redesignating paragraph (2) as para-
25 graph (3); and

1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) CONTENT.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), each report required under
6 this subsection shall include a good faith esti-
7 mate of the total number of requests described
8 in paragraph (1) requiring disclosure of infor-
9 mation concerning—

10 “(i) United States persons; and

11 “(ii) persons who are not United
12 States persons.

13 “(B) EXCEPTION.—With respect to the
14 number of requests for subscriber information
15 under section 2709 of title 18, United States
16 Code, a report required under this subsection
17 need not separate the number of requests into
18 each of the categories described in subpara-
19 graph (A).”.

20 (d) STORED COMMUNICATIONS.—Section 2702(d) of
21 title 18, United States Code, is amended—

22 (1) in paragraph (1), by striking “; and” and
23 inserting a semicolon;

24 (2) in paragraph (2)(B), by striking the period
25 and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(3) the number of accounts from which the
4 Department of Justice has received voluntary disclo-
5 sures under subsection (c)(4).”.

6 **SEC. 603. PUBLIC REPORTING BY PERSONS SUBJECT TO**
7 **FISA ORDERS.**

8 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
9 as amended by sections 402 and 602 of this Act, is further
10 amended by adding at the end the following new section:

11 **“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**
12 **ORDERS.**

13 “(a) REPORTING.—A person subject to a nondisclo-
14 sure requirement accompanying an order or directive
15 under this Act or a national security letter may, with re-
16 spect to such order, directive, or national security letter,
17 publicly report the following information using 1 of the
18 following structures:

19 “(1) A semiannual report that aggregates the
20 number of orders or national security letters with
21 which the person was required to comply in the fol-
22 lowing separate categories:

23 “(A) The number of national security let-
24 ters received, reported in bands of 1000 start-
25 ing with 0–999.

1 “(B) The number of customer accounts af-
2 fected by national security letters, reported in
3 bands of 1000 starting with 0–999.

4 “(C) The number of orders under this Act
5 for contents, reported in bands of 1000 starting
6 with 0–999.

7 “(D) With respect to contents orders
8 under this Act, in bands of 1000 starting with
9 0–999, the number of customer selectors tar-
10 geted under such orders.

11 “(E) The number of orders under this Act
12 for noncontents, reported in bands of 1000
13 starting with 0–999.

14 “(F) With respect to noncontents orders
15 under this Act, in bands of 1000 starting with
16 0–999, the number of customer selectors tar-
17 geted under orders under—

18 “(i) title IV;

19 “(ii) title V with respect to applica-
20 tions described in section 501(b)(2)(B);
21 and

22 “(iii) title V with respect to applica-
23 tions described in section 501(b)(2)(C).

24 “(2) A semiannual report that aggregates the
25 number of orders, directives, or national security let-

1 ters with which the person was required to comply
2 in the following separate categories:

3 “(A) The total number of all national secu-
4 rity process received, including all national se-
5 curity letters and orders or directives under this
6 Act, combined, reported in bands of 0–249 and
7 thereafter in bands of 250.

8 “(B) The total number of customer selec-
9 tors targeted under all national security process
10 received, including all national security letters
11 and orders or directives under this Act, com-
12 bined, reported in bands of 0–249 and there-
13 after in bands of 250.

14 “(3) A semiannual report that aggregates the
15 number of orders or national security letters with
16 which the person was required to comply in the fol-
17 lowing separate categories:

18 “(A) The number of national security let-
19 ters received, reported in bands of 500 starting
20 with 0–499.

21 “(B) The number of customer accounts af-
22 fected by national security letters, reported in
23 bands of 500 starting with 0–499.

1 “(C) The number of orders under this Act
2 for contents, reported in bands of 500 starting
3 with 0–499.

4 “(D) The number of customer selectors
5 targeted under such orders, reported in bands
6 of 500 starting with 0–499.

7 “(E) The number of orders under this Act
8 for noncontents, reported in bands of 500 start-
9 ing with 0–499.

10 “(F) The number of customer selectors
11 targeted under such orders, reported in bands
12 of 500 starting with 0–499.

13 “(4) An annual report that aggregates the
14 number of orders, directives, and national security
15 letters the person was required to comply with in the
16 following separate categories:

17 “(A) The total number of all national secu-
18 rity process received, including all national se-
19 curity letters and orders or directives under this
20 Act, combined, reported in bands of 0–100 and
21 thereafter in bands of 100.

22 “(B) The total number of customer selec-
23 tors targeted under all national security process
24 received, including all national security letters
25 and orders or directives under this Act, com-

1 bined, reported in bands of 0–100 and there-
2 after in bands of 100.

3 “(b) PERIOD OF TIME COVERED BY REPORTS.—

4 “(1) A report described in paragraph (1) or (3)
5 of subsection (a)—

6 “(A) may be published every 180 days;

7 “(B) subject to subparagraph (C), shall in-
8 clude—

9 “(i) with respect to information relat-
10 ing to national security letters, information
11 relating to the previous 180 days; and

12 “(ii) with respect to information relat-
13 ing to authorities under this Act, except as
14 provided in subparagraph (C), information
15 relating to the time period—

16 “(I) ending on the date that is
17 not less than 180 days before the date
18 on which the information is publicly
19 reported; and

20 “(II) beginning on the date that
21 is 180 days before the date described
22 in subclause (I); and

23 “(C) for a person that has received an
24 order or directive under this Act with respect to
25 a platform, product, or service for which a per-

1 son did not previously receive such an order or
2 directive (not including an enhancement to or
3 iteration of an existing publicly available plat-
4 form, product, or service)—

5 “(i) shall not include any information
6 relating to such new order or directive
7 until 540 days after the date on which
8 such new order or directive is received; and

9 “(ii) for a report published on or after
10 the date on which the 540-day waiting pe-
11 riod expires, shall include information re-
12 lating to such new order or directive re-
13 ported pursuant to subparagraph (B)(ii).

14 “(2) A report described in paragraph (2) of
15 subsection (a) may be published every 180 days and
16 shall include information relating to the previous
17 180 days.

18 “(3) A report described in paragraph (4) of
19 subsection (a) may be published annually and shall
20 include information relating to the time period—

21 “(A) ending on the date that is not less
22 than 1 year before the date on which the infor-
23 mation is publicly reported; and

24 “(B) beginning on the date that is 1 year
25 before the date described in subparagraph (A).

1 “(c) OTHER FORMS OF AGREED TO PUBLICATION.—
2 Nothing in this section prohibits the Government and any
3 person from jointly agreeing to the publication of informa-
4 tion referred to in this subsection in a time, form, or man-
5 ner other than as described in this section.

6 “(d) DEFINITIONS.—In this section:

7 “(1) CONTENTS.—The term ‘contents’ has the
8 meaning given that term under section 2510 of title
9 18, United States Code.

10 “(2) NATIONAL SECURITY LETTER.—The term
11 ‘national security letter’ has the meaning given that
12 term under section 603.”.

13 (b) TABLE OF CONTENTS AMENDMENT.—The table
14 of contents, as amended by sections 402 and 602 of this
15 Act, is further amended by inserting after the item relat-
16 ing to section 603, as added by section 602 of this Act,
17 the following new item:

 “Sec. 604. Public reporting by persons subject to orders.”.

18 **SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS, OR-**
19 **DERS, AND OPINIONS OF THE FOREIGN IN-**
20 **TELLIGENCE SURVEILLANCE COURT AND**
21 **THE FOREIGN INTELLIGENCE SURVEIL-**
22 **LANCE COURT OF REVIEW.**

23 Section 601(c)(1) (50 U.S.C. 1871(c)(1)) is amended
24 to read as follows:

1 “(1) not later than 45 days after the date on
2 which the Foreign Intelligence Surveillance Court or
3 the Foreign Intelligence Surveillance Court of Re-
4 view issues a decision, order, or opinion, including
5 any denial or modification of an application under
6 this Act, that includes significant construction or in-
7 terpretation of any provision of law or results in a
8 change of application of any provision of this Act or
9 a novel application of any provision of this Act, a
10 copy of such decision, order, or opinion and any
11 pleadings, applications, or memoranda of law associ-
12 ated with such decision, order, or opinion; and”.

13 **SEC. 605. SUBMISSION OF REPORTS UNDER FISA.**

14 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
15 (50 U.S.C. 1808(a)(1)) is amended by striking “the
16 House Permanent Select Committee on Intelligence and
17 the Senate Select Committee on Intelligence, and the
18 Committee on the Judiciary of the Senate,” and inserting
19 “the Permanent Select Committee on Intelligence and the
20 Committee on the Judiciary of the House of Representa-
21 tives and the Select Committee on Intelligence and the
22 Committee on the Judiciary of the Senate”.

23 (b) **PHYSICAL SEARCHES.**—The matter preceding
24 paragraph (1) of section 306 (50 U.S.C. 1826) is amend-
25 ed—

1 (1) in the first sentence, by striking “Perma-
2 nent Select Committee on Intelligence of the House
3 of Representatives and the Select Committee on In-
4 telligence of the Senate, and the Committee on the
5 Judiciary of the Senate,” and inserting “Permanent
6 Select Committee on Intelligence and the Committee
7 on the Judiciary of the House of Representatives
8 and the Select Committee on Intelligence and the
9 Committee on the Judiciary of the Senate”; and

10 (2) in the second sentence, by striking “and the
11 Committee on the Judiciary of the House of Rep-
12 resentatives”.

13 (c) PEN REGISTERS AND TRAP AND TRACE DE-
14 VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-
15 ed—

16 (1) in paragraph (2), by striking “; and” and
17 inserting a semicolon;

18 (2) in paragraph (3), by striking the period and
19 inserting a semicolon; and

20 (3) by adding at the end the following new
21 paragraphs:

22 “(4) each department or agency on behalf of
23 which the Attorney General or a designated attorney
24 for the Government has made an application for an
25 order authorizing or approving the installation and

1 use of a pen register or trap and trace device under
2 this title; and

3 “(5) for each department or agency described in
4 paragraph (4), each number described in paragraphs
5 (1), (2), and (3).”.

6 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
7 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.
8 1862(a)) is amended by striking “Permanent Select Com-
9 mittee on Intelligence of the House of Representatives and
10 the Select Committee on Intelligence and the Committee
11 on the Judiciary of the Senate” and inserting “Permanent
12 Select Committee on Intelligence and the Committee on
13 the Judiciary of the House of Representatives and the Se-
14 lect Committee on Intelligence and the Committee on the
15 Judiciary of the Senate”.

16 **TITLE VII—SUNSETS**

17 **SEC. 701. SUNSETS.**

18 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-
19 IZATION ACT OF 2005.—Section 102(b)(1) of the USA
20 PATRIOT Improvement and Reauthorization Act of 2005
21 (50 U.S.C. 1805 note) is amended by striking “June 1,
22 2015” and inserting “December 31, 2017”.

23 (b) INTELLIGENCE REFORM AND TERRORISM PRE-
24 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-
25 ligence Reform and Terrorism Prevention Act of 2004 (50

- 1 U.S.C. 1801 note) is amended by striking “June 1, 2015”
- 2 and inserting “December 31, 2017”.