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S. 1599

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.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 2013

Mr. LEAHY (for himself, Mr. LEE, Mr. DURBIN, Mr. HELLER, Mr. BLUMENTHAL, Ms. MURKOWSKI, Ms. HIRONO, Mr. UDALL of New Mexico, Mr. BEGICH, Ms. BALDWIN, Mr. HEINRICH, Mr. MARKEY, Mr. UDALL of Colorado, Ms. WARREN, Mr. MERKLEY, Mr. TESTER, Mr. SCHATZ, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Uniting and Strengthening America by Fulfilling Rights
 4 and Ending Eavesdropping, Dragnet-collection, and On-
 5 line Monitoring Act” or the “USA FREEDOM Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Privacy protections for business records orders.

Sec. 102. Inspector general reports on business records orders.

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

Sec. 201. Privacy protections for pen registers and trap and trace devices.

Sec. 202. Inspector general reports on pen registers and trap and trace devices.

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

Sec. 301. Clarification on prohibition on searching of collections of communications to conduct warrantless searches for the communications of United States persons.

Sec. 302. Protection against collection of wholly domestic communications.

Sec. 303. Prohibition on reverse targeting.

Sec. 304. Limits on use of unlawfully obtained information.

Sec. 305. Modification of FISA Amendments Act of 2008 sunset.

Sec. 306. Inspector general reviews of authorities.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

Sec. 401. Office of the Special Advocate.

Sec. 402. Foreign Intelligence Surveillance Court disclosure of opinions.

Sec. 403. Preservation of rights.

TITLE V—NATIONAL SECURITY LETTER REFORMS

Sec. 501. National security letter authority.

Sec. 502. Limitations on disclosure of national security letters.

Sec. 503. Judicial review.

Sec. 504. Inspector general reports on national security letters.

Sec. 505. National security letter sunset.

Sec. 506. Technical and conforming amendments.

TITLE VI—FISA AND NATIONAL SECURITY LETTER TRANSPARENCY REFORMS

- Sec. 601. Third-party reporting on FISA orders and national security letters.
 Sec. 602. Government reporting on FISA orders.
 Sec. 603. Government reporting on national security letters.

TITLE VII—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
 SUBPOENA AUTHORITY

- Sec. 701. Privacy and Civil Liberties Oversight Board subpoena authority.

TITLE VIII—SEVERABILITY

- Sec. 801. Severability.

1 **TITLE I—FISA BUSINESS**
 2 **RECORDS REFORMS**
 3 **SEC. 101. PRIVACY PROTECTIONS FOR BUSINESS RECORDS**

4 **ORDERS.**

5 (a) PRIVACY PROTECTIONS.—

6 (1) IN GENERAL.—Section 501(b) of the For-
 7 eign Intelligence Surveillance Act of 1978 (50
 8 U.S.C. 1861(b)) is amended—

9 (A) in paragraph (1)(B), by striking “and”
 10 after the semicolon;

11 (B) in paragraph (2), by striking subpara-
 12 graphs (A) and (B) and inserting the following
 13 new subparagraphs:

14 “(A) a statement of facts showing that
 15 there are reasonable grounds to believe that the
 16 tangible things sought—

17 “(i) are relevant and material to an
 18 authorized investigation (other than a
 19 threat assessment) conducted in accord-
 20 ance with subsection (a)(2) to—

1 “(I) obtain foreign intelligence
2 information not concerning a United
3 States person; or

4 “(II) protect against inter-
5 national terrorism or clandestine intel-
6 ligence activities; and

7 “(ii) pertain to—

8 “(I) a foreign power or an agent
9 of a foreign power;

10 “(II) the activities of a suspected
11 agent of a foreign power who is the
12 subject of such authorized investiga-
13 tion; or

14 “(III) an individual in contact
15 with, or known to, a suspected agent
16 of a foreign power; and

17 “(B) a statement of proposed minimization
18 procedures; and”; and

19 (C) by adding at the end the following
20 paragraph:

21 “(3) if the applicant is seeking a nondisclosure
22 requirement described in subsection (d), shall in-
23 clude—

1 “(A) the time period during which the
2 Government believes the nondisclosure require-
3 ment should apply;

4 “(B) a statement of facts showing that
5 there are reasonable grounds to believe that dis-
6 closure of particular information about the ex-
7 istence or contents of the order requiring the
8 production of tangible things under this section
9 during such time period will result in—

10 “(i) endangering the life or physical
11 safety of any person;

12 “(ii) flight from investigation or pros-
13 ecution;

14 “(iii) destruction of or tampering with
15 evidence;

16 “(iv) intimidation of potential wit-
17 nesses;

18 “(v) interference with diplomatic rela-
19 tions;

20 “(vi) alerting a target, an associate of
21 a target, or the foreign power of which the
22 target is an agent, of the interest of the
23 Government in the target; or

1 “(vii) otherwise seriously endangering
2 the national security of the United States;
3 and

4 “(C) an explanation of how the nondisclo-
5 sure requirement is narrowly tailored to address
6 the specific harm identified under subparagraph
7 (B).”.

8 (2) ORDER.—Section 501(e) of the Foreign In-
9 telligence Surveillance Act of 1978 (50 U.S.C.
10 1861(e)) is amended—

11 (A) in paragraph (1)—

12 (i) by striking “subsections (a) and
13 (b)” and inserting “subsection (a) and
14 paragraphs (1) and (2) of subsection (b)
15 and that the proposed minimization proce-
16 dures meet the definition of minimization
17 procedures under subsection (g)”;

18 (ii) by striking the last sentence and
19 inserting the following: “If the judge finds
20 that the requirements of subsection (b)(3)
21 have been met, such order shall include a
22 nondisclosure requirement, which may
23 apply for not longer than 1 year, unless
24 the facts justify a longer period of non-
25 disclosure, subject to the principles and

1 procedures described in subsection (d).”;

2 and

3 (B) in paragraph (2)—

4 (i) in subparagraph (C), by inserting
5 before the semicolon “, if applicable”;

6 (ii) in subparagraph (D), by striking
7 “and” at the end;

8 (iii) in subparagraph (E), by striking
9 the period at the end and inserting “;
10 and”;

11 (iv) by adding at the end the following
12 new subparagraph:

13 “(F) shall direct that the minimization
14 procedures be followed.”.

15 (3) NONDISCLOSURE.—Section 501(d) of the
16 Foreign Intelligence Surveillance Act of 1978 (50
17 U.S.C. 1861(d)) is amended to read as follows:

18 “(d) NONDISCLOSURE.—

19 “(1) IN GENERAL.—No person who receives an
20 order entered under subsection (c) that contains a
21 nondisclosure requirement shall disclose to any per-
22 son the particular information specified in the non-
23 disclosure requirement during the time period to
24 which the requirement applies.

25 “(2) EXCEPTION.—

1 “(A) IN GENERAL.—A person who receives
2 an order entered under subsection (c) that con-
3 tains a nondisclosure requirement may disclose
4 information otherwise subject to any applicable
5 nondisclosure requirement to—

6 “(i) those persons to whom disclosure
7 is necessary to comply with the order;

8 “(ii) an attorney to obtain legal advice
9 or assistance regarding the order; or

10 “(iii) other persons as permitted by
11 the Director of the Federal Bureau of In-
12 vestigation or the designee of the Director.

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 an order
17 is directed under this section in the same man-
18 ner as the person to whom the order is directed.

19 “(C) NOTICE.—Any person who discloses
20 to a person described in subparagraph (A) in-
21 formation otherwise subject to a nondisclosure
22 requirement shall notify the person of the appli-
23 cable nondisclosure requirement.

24 “(D) IDENTIFICATION OF DISCLOSURE RE-
25 CIPIENTS.—At the request of the Director of

1 the Federal Bureau of Investigation or the des-
2 ignee of the Director, any person making or in-
3 tending to make a disclosure under clause (i) or
4 (iii) of subparagraph (A) shall identify to the
5 Director or such designee the person to whom
6 such disclosure will be made or to whom such
7 disclosure was made prior to the request.

8 “(3) EXTENSION.—The Director of the Federal
9 Bureau of Investigation, or a designee of the Direc-
10 tor (whose rank shall be no lower than Assistant
11 Special Agent in Charge), may apply for renewals of
12 the prohibition on disclosure of particular informa-
13 tion about the existence or contents of an order re-
14 quiring the production of tangible things under this
15 section for additional periods of not longer than 1
16 year, unless the facts justify a longer period of non-
17 disclosure. A nondisclosure requirement shall be re-
18 newed if a court having jurisdiction under paragraph
19 (4) determines that the application meets the re-
20 quirements of subsection (b)(3).

21 “(4) JURISDICTION.—An application for a re-
22 newal under this subsection shall be made to—

23 “(A) a judge of the court established under
24 section 103(a); or

1 “(B) a United States Magistrate Judge
2 under chapter 43 of title 28, United States
3 Code, who is publicly designated by the Chief
4 Justice of the United States to have the power
5 to hear applications and grant orders for the
6 production of tangible things under this section
7 on behalf of a judge of the court established
8 under section 103(a).”.

9 (4) MINIMIZATION.—Section 501(g) of the For-
10 eign Intelligence Surveillance Act of 1978 (50
11 U.S.C. 1861(g)) is amended—

12 (A) in paragraph (1), by striking “Not
13 later than” and all that follows and inserting
14 “‘At or before the end of the period of time for
15 the production of tangible things under an
16 order entered under this section or at any time
17 after the production of tangible things under an
18 order entered under this section, a judge may
19 assess compliance with the minimization proce-
20 dures required by such order by reviewing the
21 circumstances under which information con-
22 cerning United States persons was acquired, re-
23 tained, or disseminated.”; and

24 (B) in paragraph (2)(A), by inserting “ac-
25 quisition and” after “to minimize the”.

1 (5) CONFORMING AMENDMENT.—Section
2 501(f)(1)(B) of the Foreign Intelligence Surveillance
3 Act of 1978 (50 U.S.C. 1861(f)(1)(B)) is amended
4 by striking “an order imposed under subsection (d)”
5 and inserting “a nondisclosure requirement imposed
6 in connection with a production order”.

7 (b) JUDICIAL REVIEW.—Section 501(f)(2) of the
8 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
9 1861(f)(2)) is amended—

10 (1) in subparagraph (A)(i)—

11 (A) by striking “that order” and inserting
12 “such production order or any nondisclosure
13 order imposed in connection with such produc-
14 tion order”; and

15 (B) by striking the second sentence;

16 (2) by striking subparagraph (C) and inserting
17 the following new subparagraph:

18 “(C) A judge considering a petition to modify or set
19 aside a nondisclosure order shall grant such petition un-
20 less the court determines that—

21 “(i) there is reason to believe that disclosure of
22 the information subject to the nondisclosure require-
23 ment during the time period in which such require-
24 ment is in effect will result in—

1 “(I) endangering the life or physical safety
2 of any person;

3 “(II) flight from investigation or prosecu-
4 tion;

5 “(III) destruction of or tampering with evi-
6 dence;

7 “(IV) intimidation of potential witnesses;

8 “(V) interference with diplomatic relations;

9 “(VI) alerting a target, an associate of a
10 target, or the foreign power of which the target
11 is an agent, of the interest of the Government
12 in the target; or

13 “(VII) otherwise seriously endangering the
14 national security of the United States; and

15 “(ii) the nondisclosure requirement is narrowly
16 tailored to address the specific harm identified under
17 clause (i).”; and

18 (3) by adding at the end the following new sub-
19 paragraph:

20 “(E) If a judge denies a petition to modify or set
21 aside a nondisclosure order under this paragraph, no per-
22 son may file another petition to modify or set aside such
23 nondisclosure order until the date that is one year after
24 the date on which such judge issues the denial of such
25 petition.”.

1 (c) EMERGENCY AUTHORITY FOR ACCESS TO CALL
2 DETAIL RECORDS.—

3 (1) IN GENERAL.—Title V of the Foreign Intel-
4 ligence Surveillance Act of 1978 (50 U.S.C. 1861 et
5 seq.) is amended—

6 (A) by redesignating section 502 as section
7 503; and

8 (B) by inserting after section 501 the fol-
9 lowing new section:

10 **“SEC. 502. EMERGENCY AUTHORITY FOR ACCESS TO CALL**
11 **DETAIL RECORDS.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of this title, the Attorney General may require the
14 production of call detail records by the provider of a wire
15 or electronic communication service on an emergency basis
16 if—

17 “(1) such records—

18 “(A) are relevant and material to an au-
19 thorized investigation (other than a threat as-
20 sessment) conducted in accordance with section
21 501(a)(2) to—

22 “(i) obtain foreign intelligence infor-
23 mation not concerning a United States
24 person; or

1 “(ii) protect against international ter-
2 rorism or clandestine intelligence activities;
3 and

4 “(B) pertain to—

5 “(i) a foreign power or an agent of a
6 foreign power;

7 “(ii) the activities of a suspected
8 agent of a foreign power who is the subject
9 of such authorized investigation; or

10 “(iii) an individual in contact with, or
11 known to, a suspected agent of a foreign
12 power;

13 “(2) the Attorney General reasonably deter-
14 mines that—

15 “(A) an emergency requires the production
16 of such records before an order requiring such
17 production can with due diligence be obtained
18 under section 501; and

19 “(B) the factual basis for issuance of an
20 order under section 501 to require the produc-
21 tion of such records exists;

22 “(3) a judge referred to in section 501(b)(1) is
23 informed by the Attorney General or a designee of
24 the Attorney General at the time of the required
25 production of such records that the decision has

1 been made to require such production on an emer-
2 gency basis; and

3 “(4) an application in accordance with section
4 501 is made to such judge as soon as practicable,
5 but not more than 7 days after the date on which
6 the Attorney General requires the production of such
7 records under this section.

8 “(b) TERMINATION OF AUTHORITY.—

9 “(1) TERMINATION.—In the absence of an
10 order under section 501 approving the production of
11 call detail records under subsection (a), the author-
12 ity to require the production of such records shall
13 terminate at the earlier of—

14 “(A) when the information sought is ob-
15 tained;

16 “(B) when the application for the order is
17 denied under section 501; or

18 “(C) 7 days after the time of the author-
19 ization by the Attorney General.

20 “(2) USE OF INFORMATION.—If an application
21 for an order under section 501 for the production of
22 call detail records required to be produced pursuant
23 to subsection (a) is denied, or in any other case in
24 which the emergency production of call detail
25 records under this section is terminated and no

1 order under section 501 is issued approving the re-
2 quired production of such records, no information
3 obtained or evidence derived from such records shall
4 be received in evidence or otherwise disclosed in any
5 trial, hearing, or other proceeding in or before any
6 court, grand jury, department, office, agency, regu-
7 latory body, legislative committee, or other authority
8 of the United States, a State, or political subdivision
9 thereof, and no information concerning any United
10 States person acquired from such records shall sub-
11 sequently be used or disclosed in any other manner
12 by Federal officers or employees without the consent
13 of such person, except with the approval of the At-
14 torney General if the information indicates a threat
15 of death or serious bodily harm to any person.

16 “(c) REPORT.—The Attorney General shall annually
17 submit to the Permanent Select Committee on Intelligence
18 and the Committee on the Judiciary of the House of Rep-
19 resentatives and the Select Committee on Intelligence and
20 the Committee on the Judiciary of the Senate a report
21 containing the number of times the authority under this
22 section was exercised during the calendar year covered by
23 such report.

24 “(d) CALL DETAIL RECORDS DEFINED.—In this sec-
25 tion, the term ‘call detail records’—

1 “(1) means session identifying information (in-
 2 cluding originating or terminating telephone num-
 3 ber, International Mobile Subscriber Identity num-
 4 ber, or International Mobile Station Equipment
 5 Identity number), telephone calling card numbers, or
 6 the time or duration of a call; and

7 “(2) does not include—

8 “(A) the contents of any communication
 9 (as defined in section 2510(8) of title 18,
 10 United States Code);

11 “(B) the name, address, or financial infor-
 12 mation of a subscriber or customer; or

13 “(C) cell site location information.”.

14 (2) TABLE OF CONTENTS AMENDMENT.—The
 15 table of contents in the first section of the Foreign
 16 Intelligence Surveillance Act of 1978 is amended by
 17 striking the item relating to section 502 and insert-
 18 ing the following new items:

“502. Emergency authority for access to call detail records.

“503. Congressional oversight.”.

19 (3) CONFORMING AMENDMENT.—Section
 20 102(b) of the USA PATRIOT Improvement and Re-
 21 authorization Act of 2005 (50 U.S.C. 1805 note) is
 22 amended by striking “sections 501, 502, and” and
 23 inserting “title V and section”.

1 **SEC. 102. INSPECTOR GENERAL REPORTS ON BUSINESS**
2 **RECORDS ORDERS.**

3 Section 106A of the USA PATRIOT Improvement
4 and Reauthorization Act of 2005 (Public Law 109–177;
5 120 Stat. 200) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by inserting “and
8 calendar years 2010 through 2013” after
9 “2006”;

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

11 (C) by redesignating paragraphs (4) and
12 (5) as paragraphs (2) and (3), respectively; and

13 (D) in paragraph (3) (as so redesign-
14 nated)—

15 (i) by striking subparagraph (C) and
16 inserting the following new subparagraph:

17 “(C) with respect to calendar years 2010
18 through 2013, an examination of the minimiza-
19 tion procedures used in relation to orders under
20 section 501 of the Foreign Intelligence Surveil-
21 lance Act of 1978 (50 U.S.C. 1861) and wheth-
22 er the minimization procedures adequately pro-
23 tect the constitutional rights of United States
24 persons;” and

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

26 “(as such term is defined in section 3(4) of

1 the National Security Act of 1947 (50
2 U.S.C. 401a(4))”;

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

5 “(3) CALENDAR YEARS 2010 THROUGH 2013.—
6 Not later than December 31, 2014, the Inspector
7 General of the Department of Justice shall submit
8 to the Committee on the Judiciary and the Select
9 Committee on Intelligence of the Senate and the
10 Committee on the Judiciary and the Permanent Se-
11 lect Committee on Intelligence of the House of Rep-
12 resentatives a report containing the results of the
13 audit conducted under subsection (a) for calendar
14 years 2010 through 2013.”;

15 (3) by redesignating subsections (d) and (e) as
16 subsections (e) and (f), respectively;

17 (4) by inserting after subsection (c) the fol-
18 lowing new subsection:

19 “(d) INTELLIGENCE ASSESSMENT.—

20 “(1) IN GENERAL.—For the period beginning
21 on January 1, 2010, and ending on December 31,
22 2013, the Inspector General of the Intelligence Com-
23 munity shall—

24 “(A) assess the importance of the informa-
25 tion acquired under title V of the Foreign Intel-

1 intelligence Surveillance Act of 1978 (50 U.S.C.
2 1861 et seq.) to the activities of the intelligence
3 community;

4 “(B) examine the manner in which that in-
5 formation was collected, retained, analyzed, and
6 disseminated by the intelligence community;

7 “(C) describe any noteworthy facts or cir-
8 cumstances relating to orders under such title;

9 “(D) examine any minimization procedures
10 used by elements of the intelligence community
11 under such title and whether the minimization
12 procedures adequately protect the constitutional
13 rights of United States persons; and

14 “(E) examine any minimization procedures
15 proposed by an element of the intelligence com-
16 munity under such title that were modified or
17 denied by the court established under section
18 103(a) of such Act (50 U.S.C. 1803(a)).

19 “(2) SUBMISSION DATE FOR ASSESSMENT.—
20 Not later than December 31, 2014, the Inspector
21 General of the Intelligence Community shall submit
22 to the Committee on the Judiciary and the Select
23 Committee on Intelligence of the Senate and the
24 Committee on the Judiciary and the Permanent Se-
25 lect Committee on Intelligence of the House of Rep-

1 representatives a report containing the results of the
2 assessment for calendar years 2010 through 2013.”;

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

5 (A) in paragraph (1)—

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

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

20 (B) in paragraph (2), by striking “the re-
21 ports submitted under subsection (c)(1) and
22 (c)(2)” and inserting “any report submitted
23 under subsection (e) or (d)”;

24 (6) in subsection (f), as redesignated by para-
25 graph (3)—

1 (A) by striking “The reports submitted
2 under subsections (c)(1) and (c)(2)” and insert-
3 ing “Each report submitted under subsection
4 (c)”;

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

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

9 “(g) DEFINITIONS.—In this section:

10 “(1) INTELLIGENCE COMMUNITY.—The term
11 ‘intelligence community’ has the meaning given that
12 term in section 3 of the National Security Act of
13 1947 (50 U.S.C. 3003).

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

18 **TITLE II—FISA PEN REGISTER**
19 **AND TRAP AND TRACE DE-**
20 **VICE REFORMS**

21 **SEC. 201. PRIVACY PROTECTIONS FOR PEN REGISTERS**
22 **AND TRAP AND TRACE DEVICES.**

23 (a) APPLICATION.—Section 402(c) of the Foreign In-
24 telligence Surveillance Act of 1978 (50 U.S.C. 1842(c))
25 is amended—

1 (1) in paragraph (1), by striking “and” at the
2 end; and

3 (2) by striking paragraph (2) and inserting the
4 following new paragraphs:

5 “(2) a statement of facts showing that there
6 are reasonable grounds to believe that the informa-
7 tion sought—

8 “(A) is relevant and material to an author-
9 ized investigation to obtain foreign intelligence
10 information not concerning a United States per-
11 son or to protect against international terrorism
12 or clandestine intelligence activities (other than
13 a threat assessment), provided that such inves-
14 tigation of a United States person is not con-
15 ducted solely upon the basis of activities pro-
16 tected by the First Amendment to the Constitu-
17 tion of the United States; and

18 “(B) pertain to—

19 “(i) a foreign power or an agent of a
20 foreign power;

21 “(ii) the activities of a suspected
22 agent of a foreign power who is the subject
23 of such authorized investigation; or

1 “(iii) an individual in contact with, or
2 known to, a suspected agent of a foreign
3 power; and

4 “(3) a statement of proposed minimization pro-
5 cedures.”.

6 (b) MINIMIZATION.—

7 (1) DEFINITION.—Section 401 of the Foreign
8 Intelligence Surveillance Act of 1978 (50 U.S.C.
9 1841) is amended by adding at the end the following
10 new paragraph:

11 “(4) The term ‘minimization procedures’
12 means—

13 “(A) specific procedures that are reason-
14 ably designed in light of the purpose and tech-
15 nique of an order for the installation and use
16 of a pen register or trap and trace device, to
17 minimize the acquisition and retention, and pro-
18 hibit the dissemination, of nonpublicly available
19 information concerning unconsenting United
20 States persons consistent with the need of the
21 United States to obtain, produce, and dissemi-
22 nate foreign intelligence information;

23 “(B) procedures that require that nonpub-
24 licly available information, which is not foreign
25 intelligence information, as defined in section

1 101(e)(1), shall not be disseminated in a man-
2 ner that identifies any United States person,
3 without such person’s consent, unless such per-
4 son’s identity is necessary to understand foreign
5 intelligence information or assess its impor-
6 tance; and

7 “(C) notwithstanding subparagraphs (A)
8 and (B), procedures that allow for the retention
9 and dissemination of information that is evi-
10 dence of a crime which has been, is being, or
11 is about to be committed and that is to be re-
12 tained or disseminated for law enforcement pur-
13 poses.”.

14 (2) PROCEDURES REQUIRED.—Section 402 of
15 the Foreign Intelligence Surveillance Act of 1978
16 (50 U.S.C. 1842) is amended—

17 (A) in subsection (d)—

18 (i) in paragraph (1), by inserting
19 “and that the proposed minimization pro-
20 cedures meet the definition of minimization
21 procedures under this title” before the pe-
22 riod at the end; and

23 (ii) in paragraph (2)(B)—

24 (I) in clause (ii)(II), by striking
25 “and” after the semicolon; and

1 (II) by adding at the end the fol-
2 lowing new clause:

3 “(iv) the minimization procedures be
4 followed; and”; and

5 (B) by adding at the end the following new
6 subsection:

7 “(h) At or before the end of the period of time for
8 which the installation and use of a pen register or trap
9 and trace device is approved under an order or an exten-
10 sion under this section, the judge may assess compliance
11 with the minimization procedures by reviewing the cir-
12 cumstances under which information concerning United
13 States persons was acquired, retained, or disseminated.”.

14 (3) EMERGENCIES.—Section 403 of the For-
15 eign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1843) is amended—

17 (A) by redesignating subsection (c) as sub-
18 section (d); and

19 (B) by inserting after subsection (b) the
20 following new subsection:

21 “(c) If the Attorney General authorizes the emer-
22 gency installation and use of a pen register or trap and
23 trace device under this section, the Attorney General shall
24 require that minimization procedures required by this title
25 for the issuance of a judicial order be followed.”.

1 (4) USE OF INFORMATION.—Section 405(a)(1)
2 of the Foreign Intelligence Surveillance Act of 1978
3 (50 U.S.C. 1845(a)(1)) is amended by inserting
4 “and the minimization procedures required under
5 the order approving such pen register or trap and
6 trace device” after “of this section”.

7 (c) TRANSITION PROCEDURES.—

8 (1) ORDERS IN EFFECT.—Notwithstanding the
9 amendments made by this section, an order entered
10 under section 402(d)(1) of the Foreign Intelligence
11 Surveillance Act of 1978 (50 U.S.C. 1842(d)(1))
12 that is in effect on the effective date of the amend-
13 ments made by this section shall remain in effect
14 until the expiration of the order.

15 (2) EXTENSIONS.—A request for an extension
16 of an order referred to in paragraph (1) shall be
17 subject to the requirements of the Foreign Intel-
18 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
19 seq.), as amended by this Act.

20 **SEC. 202. INSPECTOR GENERAL REPORTS ON PEN REG-**
21 **ISTERS AND TRAP AND TRACE DEVICES.**

22 (a) AUDITS.—The Inspector General of the Depart-
23 ment of Justice shall perform comprehensive audits of the
24 effectiveness and use, including any improper or illegal
25 use, of pen registers and trap and trace devices under title

1 IV of the Foreign Intelligence Surveillance Act of 1978
2 (50 U.S.C. 1841 et seq.) during the period beginning on
3 January 1, 2010, and ending on December 31, 2013.

4 (b) REQUIREMENTS.—The audits required under
5 subsection (a) shall include—

6 (1) an examination of the use of pen registers
7 and trap and trace devices under such title for cal-
8 endar years 2010 through 2013;

9 (2) an examination of the installation and use
10 of a pen register or trap and trace device on emer-
11 gency bases under section 403 of such Act (50
12 U.S.C. 1843);

13 (3) an examination of any noteworthy facts or
14 circumstances relating to the use of a pen register
15 or trap and trace device under such title, including
16 any improper or illegal use of the authority provided
17 under such title; and

18 (4) an examination of the effectiveness of the
19 authority under such title as an investigative tool,
20 including—

21 (A) the importance of the information ac-
22 quired to the intelligence activities of the Fed-
23 eral Bureau of Investigation;

24 (B) the manner in which the information is
25 collected, retained, analyzed, and disseminated

1 by the Federal Bureau of Investigation, includ-
2 ing any direct access to the information pro-
3 vided to any other department, agency, or in-
4 strumentality of Federal, State, local, or tribal
5 governments or any private sector entity;

6 (C) whether, and how often, the Federal
7 Bureau of Investigation used information ac-
8 quired under a pen register or trap and trace
9 device under such title to produce an analytical
10 intelligence product for distribution within the
11 Federal Bureau of Investigation, to the intel-
12 ligence community, or to another department,
13 agency, or instrumentality of Federal, State,
14 local, or tribal governments; and

15 (D) whether, and how often, the Federal
16 Bureau of Investigation provided information
17 acquired under a pen register or trap and trace
18 device under such title to law enforcement au-
19 thorities for use in criminal proceedings.

20 (c) REPORT.—Not later than December 31, 2014, the
21 Inspector General of the Department of Justice shall sub-
22 mit to the Committee on the Judiciary and the Select
23 Committee on Intelligence of the Senate and the Com-
24 mittee on the Judiciary and the Permanent Select Com-
25 mittee on Intelligence of the House of Representatives a

1 report containing the results of the audits conducted
2 under subsection (a) for calendar years 2010 through
3 2013.

4 (d) INTELLIGENCE ASSESSMENT.—

5 (1) IN GENERAL.—For the period beginning
6 January 1, 2010, and ending on December 31,
7 2013, the Inspector General of the Intelligence Com-
8 munity shall—

9 (A) assess the importance of the informa-
10 tion to the activities of the intelligence commu-
11 nity;

12 (B) examine the manner in which the in-
13 formation was collected, retained, analyzed, and
14 disseminated;

15 (C) describe any noteworthy facts or cir-
16 cumstances relating to orders under title IV of
17 the Foreign Intelligence Surveillance Act of
18 1978 (50 U.S.C. 1841 et seq.); and

19 (D) examine any minimization procedures
20 used by elements of the intelligence community
21 in relation to pen registers and trap and trace
22 devices under title IV of the Foreign Intel-
23 ligence Surveillance Act of 1978 (50 U.S.C.
24 1841 et seq.) and whether the minimization

1 procedures adequately protect the constitutional
2 rights of United States persons.

3 (2) SUBMISSION DATES FOR ASSESSMENT.—

4 Not later than December 31, 2014, the Inspector
5 General of the Intelligence Community shall submit
6 to the Committee on the Judiciary and the Select
7 Committee on Intelligence of the Senate and the
8 Committee on the Judiciary and the Permanent Se-
9 lect Committee on Intelligence of the House of Rep-
10 resentatives a report containing the results of the
11 assessment for calendar years 2010 through 2013.

12 (e) PRIOR NOTICE TO ATTORNEY GENERAL AND DI-
13 RECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

14 (1) NOTICE.—Not later than 30 days before the
15 submission of any report under subsection (c) or (d),
16 the Inspector General of the Department of Justice
17 and the Inspector General of the Intelligence Com-
18 munity shall provide the report to the Attorney Gen-
19 eral and the Director of National Intelligence.

20 (2) COMMENTS.—The Attorney General or the
21 Director of National Intelligence may provide such
22 comments to be included in any report submitted
23 under subsection (c) or (d) as the Attorney General
24 or the Director of National Intelligence may consider
25 necessary.

1 (f) UNCLASSIFIED FORM.—Each report submitted
2 under subsection (c) and any comments included in that
3 report under subsection (e)(2) shall be in unclassified
4 form, but may include a classified annex.

5 (g) DEFINITIONS.—In this section—

6 (1) the terms “Attorney General”, “foreign in-
7 telligence information”, and “United States person”
8 have the meanings given those terms in section 101
9 of the Foreign Intelligence Surveillance Act of 1978
10 (50 U.S.C. 1801);

11 (2) the term “intelligence community” has the
12 meaning given that term in section 3 of the National
13 Security Act of 1947 (50 U.S.C. 3003);

14 (3) the term “minimization procedures” has the
15 meaning given that term in section 401 of the For-
16 eign Intelligence Surveillance Act of 1978 (50
17 U.S.C. 1841), as amended by this Act; and

18 (4) the terms “pen register” and “trap and
19 trace device” have the meanings given those terms
20 in section 3127 of title 18, United States Code.

1 **TITLE III—FISA ACQUISITIONS**
 2 **TARGETING PERSONS OUT-**
 3 **SIDE THE UNITED STATES RE-**
 4 **FORMS**

5 **SEC. 301. CLARIFICATION ON PROHIBITION ON SEARCHING**
 6 **OF COLLECTIONS OF COMMUNICATIONS TO**
 7 **CONDUCT WARRANTLESS SEARCHES FOR**
 8 **THE COMMUNICATIONS OF UNITED STATES**
 9 **PERSONS.**

10 Section 702(b) of the Foreign Intelligence Surveil-
 11 lance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

12 (1) by redesignating paragraphs (1) through
 13 (5) as subparagraphs (A) through (E), respectively,
 14 and indenting such subparagraphs, as so redesign-
 15 ated, an additional two ems from the left margin;

16 (2) by striking “An acquisition” and inserting
 17 the following:

18 “(1) IN GENERAL.—An acquisition”; and

19 (3) by adding at the end the following new
 20 paragraph:

21 “(2) CLARIFICATION ON PROHIBITION ON
 22 SEARCHING OF COLLECTIONS OF COMMUNICATIONS
 23 OF UNITED STATES PERSONS.—

24 “(A) IN GENERAL.—Except as provided in
 25 subparagraph (B), no officer or employee of the

1 United States may conduct a search of a collec-
2 tion of communications acquired under this sec-
3 tion in an effort to find communications of a
4 particular United States person (other than a
5 corporation).

6 “(B) CONCURRENT AUTHORIZATION AND
7 EXCEPTION FOR EMERGENCY SITUATIONS.—
8 Subparagraph (A) shall not apply to a search
9 for communications related to a particular
10 United States person if—

11 “(i) such United States person is the
12 subject of an order or emergency author-
13 ization authorizing electronic surveillance
14 or physical search under section 105, 304,
15 703, 704, or 705, or title 18, United
16 States Code, for the effective period of that
17 order;

18 “(ii) the entity carrying out the
19 search has a reasonable belief that the life
20 or safety of such United States person is
21 threatened and the information is sought
22 for the purpose of assisting that person; or

23 “(iii) such United States person has
24 consented to the search.”.

1 **SEC. 302. PROTECTION AGAINST COLLECTION OF WHOLLY**
2 **DOMESTIC COMMUNICATIONS.**

3 (a) IN GENERAL.—Section 702 of the Foreign Intel-
4 ligence Surveillance Act of 1978 (50 U.S.C. 1881a) is
5 amended—

6 (1) in subsection (d)(1)—

7 (A) in subparagraph (A), by striking
8 “and” at the end;

9 (B) in subparagraph (B), by striking the
10 period and inserting “; and”; and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(C) limit the acquisition of the contents
14 of any communication to those communica-
15 tions—

16 “(i) to which any party is a target of
17 the acquisition; or

18 “(ii) that contain an account identifier
19 of a target of an acquisition, only if such
20 communications are acquired to protect
21 against international terrorism or the
22 international proliferation of weapons of
23 mass destruction.”; and

24 (2) in subsection (i)(2)(B)—

25 (A) in clause (i), by striking “; and” and
26 inserting a semicolon;

1 (B) in clause (ii), by striking the period
2 and inserting “; and”; and

3 (C) by adding at the end the following new
4 clause:

5 “(iii) limit the acquisition of the con-
6 tents of any communication to those com-
7 munications—

8 “(I) to which any party is a tar-
9 get of the acquisition; or

10 “(II) that contain an account
11 identifier of the target of an acquisi-
12 tion, only if such communications are
13 acquired to protect against inter-
14 national terrorism or the international
15 proliferation of weapons of mass de-
16 struction.”.

17 (b) CONFORMING AMENDMENT.—Section 701 of the
18 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
19 1881) is amended—

20 (1) in subsection (a)—

21 (A) by inserting “‘international ter-
22 rorism’,” after “‘foreign power’,”; and

23 (B) by striking “and ‘United States per-
24 son’” and inserting “‘United States person’,
25 and ‘weapon of mass destruction’”; and

1 (2) in subsection (b)—

2 (A) by redesignating paragraphs (1)
3 through (5) as paragraphs (2) through (6), re-
4 spectively; and

5 (B) by inserting before paragraph (2), as
6 so redesignated, the following new paragraph:

7 “(1) ACCOUNT IDENTIFIER.—The term ‘ac-
8 count identifier’ means a telephone or instrument
9 number, other subscriber number, email address, or
10 username used to uniquely identify an account.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 subsections (a) and (b) shall take effect on the date that
13 is 180 days after the date of the enactment of this Act.

14 **SEC. 303. PROHIBITION ON REVERSE TARGETING.**

15 Section 702(b)(1)(B) of the Foreign Intelligence Sur-
16 veillance Act of 1978 (50 U.S.C. 1881a), as redesignated
17 by section 301(1) of this Act, is amended by striking “the
18 purpose” and inserting “a significant purpose”.

19 **SEC. 304. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
20 **FORMATION.**

21 Section 702(i)(3) of the Foreign Intelligence Surveil-
22 lance Act of 1978 (50 U.S.C. 1881a(i)(3)) is amended by
23 striking subparagraph (B) and inserting the following new
24 subparagraph:

25 “(B) CORRECTION OF DEFICIENCIES.—

1 “(i) IN GENERAL.—If the Court finds
2 that a certification required by subsection
3 (g) does not contain all of the required ele-
4 ments, or that the procedures required by
5 subsections (d) and (e) are not consistent
6 with the requirements of those subsections
7 or the Fourth Amendment to the Constitu-
8 tion of the United States, the Court shall
9 issue an order directing the Government
10 to, at the Government’s election and to the
11 extent required by the order of the
12 Court—

13 “(I) correct any deficiency identi-
14 fied by the order of the Court not
15 later than 30 days after the date on
16 which the Court issues the order; or

17 “(II) cease, or not begin, the im-
18 plementation of the authorization for
19 which such certification was sub-
20 mitted.

21 “(ii) LIMITATION ON USE OF INFOR-
22 MATION.—

23 “(I) IN GENERAL.—Except as
24 provided in subclause (II), no infor-
25 mation obtained or evidence derived

1 from an acquisition pursuant to a cer-
2 tification or targeting or minimization
3 procedures subject to an order under
4 clause (i) concerning any United
5 States person shall be received in evi-
6 dence or otherwise disclosed in any
7 trial, hearing, or other proceeding in
8 or before any court, grand jury, de-
9 partment, office, agency, regulatory
10 body, legislative committee, or other
11 authority of the United States, a
12 State, or political subdivision thereof,
13 and no information concerning any
14 United States person acquired from
15 the acquisition shall subsequently be
16 used or disclosed in any other manner
17 by Federal officers or employees with-
18 out the consent of the United States
19 person, except with the approval of
20 the Attorney General if the informa-
21 tion indicates a threat of death or se-
22 rious bodily harm to any person.

23 “(II) EXCEPTION.—If the Gov-
24 ernment corrects any deficiency iden-
25 tified by the order of the Court under

1 clause (i), the Court may permit the
2 use or disclosure of information ac-
3 quired before the date of the correc-
4 tion under such minimization proce-
5 dures as the Court shall establish for
6 purposes of this clause.”.

7 **SEC. 305. MODIFICATION OF FISA AMENDMENTS ACT OF**
8 **2008 SUNSET.**

9 (a) **MODIFICATION.**—Section 403(b)(1) of the FISA
10 Amendments Act of 2008 (Public Law 110–261; 50
11 U.S.C. 1881 note) is amended by striking “December 31,
12 2017” and inserting “June 1, 2015”.

13 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
14 Section 403(b)(2) of such Act (Public Law 110–261; 122
15 Stat. 2474) is amended by striking “December 31, 2017”
16 and inserting “June 1, 2015”.

17 (c) **ORDERS IN EFFECT.**—Section 404(b)(1) of such
18 Act (Public Law 110–261; 50 U.S.C. 1801 note) is
19 amended in the paragraph heading by striking “DECEM-
20 BER 31, 2017” and inserting “JUNE 1, 2015”.

21 **SEC. 306. INSPECTOR GENERAL REVIEWS OF AUTHORITIES.**

22 (a) **AGENCY ASSESSMENTS.**—Section 702(l)(2) of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1881a(l)(2)) is amended—

1 (1) in the matter preceding subparagraph (A),
2 by striking “authorized to acquire foreign intel-
3 ligence information under subsection (a)” and in-
4 serting “subject to the targeting or minimization
5 procedures approved under this section”;

6 (2) in subparagraph (C), by inserting “United
7 States persons or” after “later determined to be”;
8 and

9 (3) in subparagraph (D)—

10 (A) in the matter preceding clause (i), by
11 striking “such review” and inserting “review
12 conducted under this paragraph”;

13 (B) in clause (ii), by striking “and” at the
14 end;

15 (C) by redesignating clause (iii) as clause
16 (iv); and

17 (D) by inserting after clause (ii) the fol-
18 lowing new clause:

19 “(iii) the Inspector General of the In-
20 telligence Community; and”.

21 (b) INSPECTOR GENERAL OF THE INTELLIGENCE
22 COMMUNITY REVIEW.—

23 (1) RECURRING REVIEWS.—Section 702(l) of
24 the Foreign Intelligence Surveillance Act of 1978
25 (50 U.S.C. 1881a(l)) is amended—

1 (A) by redesignating paragraph (3) as
2 paragraph (4); and

3 (B) by inserting after paragraph (2) the
4 following new paragraph:

5 “(3) INSPECTOR GENERAL OF THE INTEL-
6 LIGENCE COMMUNITY REVIEW.—

7 “(A) IN GENERAL.—The Inspector General
8 of the Intelligence Community is authorized to
9 review the acquisition, use, and dissemination
10 of information acquired under subsection (a) to
11 review compliance with the targeting and mini-
12 mization procedures adopted in accordance with
13 subsections (d) and (e) and the guidelines
14 adopted in accordance with subsection (f), and
15 in order to conduct the review required under
16 subparagraph (B).

17 “(B) MANDATORY REVIEW.—The Inspec-
18 tor General of the Intelligence Community shall
19 review the procedures and guidelines developed
20 by the elements of the intelligence community
21 to implement this section, with respect to the
22 protection of the privacy rights of United States
23 persons, including—

24 “(i) an evaluation of the limitations
25 outlined in subsection (b), the procedures

1 approved in accordance with subsections
2 (d) and (e), and the guidelines adopted in
3 accordance with subsection (f), with re-
4 spect to the protection of the privacy rights
5 of United States persons; and

6 “(ii) an evaluation of the circum-
7 stances under which the contents of com-
8 munications acquired under subsection (a)
9 may be searched in order to review the
10 communications of particular United
11 States persons.

12 “(C) CONSIDERATION OF OTHER REVIEWS
13 AND ASSESSMENTS.—In conducting a review
14 under subparagraph (B), the Inspector General
15 of the Intelligence Community shall take into
16 consideration, to the extent relevant and appro-
17 priate, any reviews or assessments that have
18 been completed or are being undertaken under
19 this section.

20 “(D) PUBLIC REPORTING OF FINDINGS
21 AND CONCLUSIONS.—In a manner consistent
22 with the protection of the national security of
23 the United States, and in unclassified form, the
24 Inspector General of the Intelligence Commu-
25 nity shall make publicly available a summary of

1 the findings and conclusions of the review con-
2 ducted under subparagraph (B).”.

3 (2) REPORT.—Not later than December 31,
4 2014, the Inspector General of the Intelligence Com-
5 munity shall submit a report regarding the reviews
6 conducted under paragraph (3) of section 702(l) of
7 the Foreign Intelligence Surveillance Act of 1978
8 (50 U.S.C. 1881a(l)), as amended by paragraph (1)
9 of this subsection, to—

10 (A) the Attorney General;

11 (B) the Director of National Intelligence;

12 and

13 (C) consistent with the Rules of the House
14 of Representatives, the Standing Rules of the
15 Senate, and Senate Resolution 400 of the 94th
16 Congress or any successor Senate resolution—

17 (i) the congressional intelligence com-
18 mittees; and

19 (ii) the Committee on the Judiciary of
20 the Senate and the Committee on the Ju-
21 diciary of the House of Representatives.

22 (c) ANNUAL REVIEWS.—Section 702(l)(4)(A) of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1881a(l)(4)(A)), as redesignated by subsection (b)(1), is
25 amended—

1 (1) in the matter preceding clause (i)—

2 (A) in the first sentence—

3 (i) by striking “conducting an acquisi-
4 tion authorized under subsection (a)” and
5 inserting “subject to targeting or mini-
6 mization procedures approved under this
7 section”; and

8 (ii) by striking “the acquisition” and
9 inserting “acquisitions under subsection
10 (a)”; and

11 (B) in the second sentence, by striking
12 “acquisitions” and inserting “information ob-
13 tained through an acquisition”; and

14 (2) in clause (iii), by inserting “United States
15 persons or” after “later determined to be”.

16 **TITLE IV—FOREIGN INTEL-**
17 **LIGENCE SURVEILLANCE**
18 **COURT REFORMS**

19 **SEC. 401. OFFICE OF THE SPECIAL ADVOCATE.**

20 (a) ESTABLISHMENT.—The Foreign Intelligence Sur-
21 veillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended
22 by adding at the end the following new title:

1 **“TITLE IX—OFFICE OF THE**
2 **SPECIAL ADVOCATE**

3 **“SEC. 901. DEFINITIONS.**

4 “In this title:

5 “(1) DECISION.—The term ‘decision’ means a
6 decision, order, or opinion issued by the Foreign In-
7 telligence Surveillance Court or the Foreign Intel-
8 ligence Surveillance Court of Review.

9 “(2) FOREIGN INTELLIGENCE SURVEILLANCE
10 COURT; COURT.—The terms ‘Foreign Intelligence
11 Surveillance Court’ and ‘Court’ mean the court es-
12 tablished under section 103(a) and the petition re-
13 view pool established under section 103(e).

14 “(3) FOREIGN INTELLIGENCE SURVEILLANCE
15 COURT OF REVIEW; COURT OF REVIEW.—The terms
16 ‘Foreign Intelligence Surveillance Court of Review’
17 and ‘Court of Review’ mean the court of review es-
18 tablished under section 103(b).

19 “(4) OFFICE.—The term ‘Office’ means the Of-
20 fice of the Special Advocate established under sec-
21 tion 902(a).

22 “(5) SIGNIFICANT CONSTRUCTION OR INTER-
23 PRETATION OF LAW.—The term ‘significant con-
24 struction or interpretation of law’ means a signifi-

1 cant construction or interpretation of a provision, as
2 that term is construed under section 601(c).

3 “(6) SPECIAL ADVOCATE.—The term ‘Special
4 Advocate’ means the Special Advocate appointed
5 under section 902(b).

6 **“SEC. 902. OFFICE OF THE SPECIAL ADVOCATE.**

7 “(a) ESTABLISHMENT.—There is established within
8 the judicial branch of the United States an Office of the
9 Special Advocate.

10 “(b) SPECIAL ADVOCATE.—

11 “(1) IN GENERAL.—The head of the Office is
12 the Special Advocate.

13 “(2) APPOINTMENT AND TERM.—

14 “(A) APPOINTMENT.—The Chief Justice of
15 the United States shall appoint the Special Ad-
16 vocate from the list of candidates submitted
17 under subparagraph (B).

18 “(B) LIST OF CANDIDATES.—The Privacy
19 and Civil Liberties Oversight Board shall sub-
20 mit to the Chief Justice a list of not less than
21 5 qualified candidates to serve as Special Advo-
22 cate. The Board shall select candidates for such
23 list whom the Board believes will be zealous and
24 effective advocates in defense of civil liberties

1 and consider with respect to each potential can-
2 didate—

3 “(i) the litigation and other profes-
4 sional experience of such candidate;

5 “(ii) the experience of such candidate
6 in areas of law that the Special Advocate
7 is likely to encounter in the course of the
8 duties of the Special Advocate; and

9 “(iii) the demonstrated commitment
10 of such candidate to civil liberties.

11 “(C) SECURITY CLEARANCE.—An indi-
12 vidual may be appointed Special Advocate with-
13 out regard to whether the individual possesses
14 a security clearance on the date of the appoint-
15 ment.

16 “(D) TERM AND DISMISSAL.—A Special
17 Advocate shall be appointed for a term of 3
18 years and may be removed only for good cause
19 shown, including the demonstrated inability to
20 qualify for an adequate security clearance.

21 “(E) REAPPOINTMENT.—There shall be no
22 limit to the number of consecutive terms served
23 by a Special Advocate. The reappointment of a
24 Special Advocate shall be made in the same
25 manner as appointment of a Special Advocate.

1 “(F) ACTING SPECIAL ADVOCATE.—If the
2 position of Special Advocate is vacant, the Chief
3 Justice of the United States may appoint an
4 Acting Special Advocate from among the quali-
5 fied employees of the Office. If there are no
6 such qualified employees, the Chief Justice may
7 appoint an Acting Special Advocate from the
8 most recent list of candidates provided by the
9 Privacy and Civil Liberties Oversight Board
10 pursuant to subparagraph (B). The Acting Spe-
11 cial Advocate shall have all of the powers of a
12 Special Advocate and shall serve until a Special
13 Advocate is appointed.

14 “(3) EMPLOYEES.—The Special Advocate may
15 appoint and terminate and fix the compensation of
16 employees of the Office without regard to the provi-
17 sions of title 5, United States Code, governing ap-
18 pointments in the competitive service.

19 “(c) DUTIES AND AUTHORITIES OF THE SPECIAL
20 ADVOCATE.—

21 “(1) IN GENERAL.—The Special Advocate—

22 “(A) may consider any request for con-
23 sultation by a party who has been served with
24 an order or directive issued under this Act re-

1 quiring the party to provide information, facili-
2 ties, or assistance to the Federal Government;

3 “(B) may request to participate in a pro-
4 ceeding before the Foreign Intelligence Surveil-
5 lance Court;

6 “(C) shall participate in such proceeding if
7 such request is granted;

8 “(D) shall participate in a proceeding be-
9 fore the Court if appointed to participate by the
10 Court under section 903(a);

11 “(E) may request reconsideration of a de-
12 cision of the Court under section 903(b);

13 “(F) may appeal or seek review of a deci-
14 sion of the Court or the Foreign Intelligence
15 Surveillance Court of Review under section 904;
16 and

17 “(G) shall participate in such appeal or re-
18 view.

19 “(2) ACCESS TO APPLICATIONS AND DECI-
20 SIONS.—

21 “(A) APPLICATIONS.—The Attorney Gen-
22 eral shall provide to the Special Advocate each
23 application submitted to a judge of the Foreign
24 Intelligence Surveillance Court under this Act

1 at the same time as the Attorney General sub-
2 mits such applications.

3 “(B) DECISIONS.—The Foreign Intel-
4 ligence Surveillance Court and the Foreign In-
5 telligence Surveillance Court of Review shall
6 provide to the Special Advocate access to each
7 decision of the Court and the Court of Review,
8 respectively, issued after the date of the enact-
9 ment of the USA FREEDOM Act and all docu-
10 ments and other material relevant to such deci-
11 sion in complete, unredacted form.

12 “(3) ADVOCACY.—The Special Advocate shall
13 vigorously advocate before the Foreign Intelligence
14 Surveillance Court or the Foreign Intelligence Sur-
15 veillance Court of Review, as appropriate, in support
16 of legal interpretations that protect individual pri-
17 vacy and civil liberties.

18 “(4) OUTSIDE COUNSEL.—The Special Advo-
19 cate may delegate to a competent outside counsel
20 who has or is able to obtain an appropriate security
21 clearance any duty or responsibility of the Special
22 Advocate set out in subparagraph (C), (D), or (G)
23 of paragraph (1) with respect to participation in a
24 matter before the Court, the Court of Review, or the
25 Supreme Court of the United States.

1 “(2) STANDING.—If the Special Advocate is ap-
2 pointed to participate in a Court proceeding pursu-
3 ant to paragraph (1), the Special Advocate shall
4 have standing as a party before the Court in that
5 proceeding.

6 “(b) RECONSIDERATION OF A FOREIGN INTEL-
7 LIGENCE SURVEILLANCE COURT DECISION.—

8 “(1) AUTHORITY TO MOVE FOR RECONSIDER-
9 ATION.—The Special Advocate may move the Court
10 to reconsider any decision of the Court made after
11 the date of the enactment of the USA FREEDOM
12 Act by petitioning the Court not later than 30 days
13 after the date on which all documents and materials
14 relevant to the decision are made available to the
15 Special Advocate.

16 “(2) DISCRETION OF THE COURT.—The Court
17 shall have discretion to grant or deny a motion for
18 reconsideration made pursuant to paragraph (1).

19 “(c) AMICI CURIAE PARTICIPATION.—

20 “(1) MOTION BY THE SPECIAL ADVOCATE.—
21 The Special Advocate may file a motion with the
22 Court to permit and facilitate participation of amici
23 curiae, including participation in oral argument if
24 appropriate, in any proceeding. The Court shall have
25 the discretion to grant or deny such a motion.

1 “(2) FACILITATION BY THE FOREIGN INTEL-
2 LIGENCE SURVEILLANCE COURT.—The Court may,
3 sua sponte, permit and facilitate participation by
4 amici curiae, including participation in oral argu-
5 ment if appropriate, in proceedings before the Court.

6 “(3) REGULATIONS.—Not later than 180 days
7 after the date of the enactment of USA FREEDOM
8 Act, the Court shall promulgate regulations to pro-
9 vide the public with information sufficient to allow
10 interested parties to participate as amici curiae.

11 **“SEC. 904. APPELLATE REVIEW.**

12 “(a) APPEAL OF FOREIGN INTELLIGENCE SURVEIL-
13 LANCE COURT DECISIONS.—

14 “(1) AUTHORITY TO APPEAL.—The Special Ad-
15 vocate may appeal any decision of the Foreign Intel-
16 ligence Surveillance Court issued after the date of
17 the enactment of the USA FREEDOM Act not later
18 than 90 days after the date on which the decision
19 is issued.

20 “(2) STANDING AS APPELLANT.—If the Special
21 Advocate appeals a decision of the Court pursuant
22 to paragraph (1), the Special Advocate shall have
23 standing as a party before the Foreign Intelligence
24 Surveillance Court of Review in such appeal.

1 “(3) MANDATORY REVIEW.—The Court of Re-
2 view shall review any Foreign Intelligence Surveil-
3 lance Court decision appealed by the Special Advo-
4 cate and issue a decision in such appeal, unless it
5 would be apparent to all reasonable jurists that such
6 decision is dictated by statute or by precedent.

7 “(4) STANDARD OF REVIEW.—The standard for
8 a mandatory review of a Foreign Intelligence Sur-
9 veillance Court decision pursuant to paragraph (3)
10 shall be—

11 “(A) de novo with respect to issues of law;

12 and

13 “(B) clearly erroneous with respect to de-
14 termination of facts.

15 “(5) AMICI CURIAE PARTICIPATION.—

16 “(A) IN GENERAL.—The Court of Review
17 shall accept amici curiae briefs from interested
18 parties in all mandatory reviews pursuant to
19 paragraph (3) and shall provide for amici cu-
20 riae participation in oral argument if appro-
21 priate.

22 “(B) REGULATIONS.—Not later than 180
23 days after the date of the enactment of the
24 USA FREEDOM Act, the Court of Review
25 shall promulgate regulations to provide the pub-

1 lic with information sufficient to allow inter-
2 ested parties to participate as amici curiae.

3 “(b) REVIEW OF FOREIGN INTELLIGENCE SURVEIL-
4 LANCE COURT OF REVIEW DECISIONS.—

5 “(1) AUTHORITY.—The Special Advocate may
6 seek a writ of certiorari from the Supreme Court of
7 the United States for review of any decision of the
8 Foreign Intelligence Surveillance Court of Review.

9 “(2) STANDING.—In any proceedings before the
10 Supreme Court of the United States relating to a
11 petition of certiorari filed under paragraph (1) and
12 any proceedings in a matter for which certiorari is
13 granted, the Special Advocate shall have standing as
14 a party.

15 **“SEC. 905. DISCLOSURE.**

16 “(a) REQUIREMENT TO DISCLOSE.—The Attorney
17 General shall publicly disclose—

18 “(1) all decisions issued by the Foreign Intel-
19 ligence Surveillance Court or the Foreign Intel-
20 ligence Surveillance Court of Review after July 10,
21 2003, that include a significant construction or in-
22 terpretation of law;

23 “(2) any decision of the Court appealed by the
24 Special Advocate pursuant to this title; and

1 “(3) any Court of Review decision that is issued
2 after an appeal by the Special Advocate.

3 “(b) DISCLOSURE DESCRIBED.—For each disclosure
4 required by subsection (a) with respect to a decision, the
5 Attorney General shall make available to the public docu-
6 ments sufficient—

7 “(1) to identify with particularity each legal
8 question addressed by the decision and how such
9 question was resolved;

10 “(2) to describe in general terms the context in
11 which the matter arises;

12 “(3) to describe the construction or interpreta-
13 tion of any statute, constitutional provision, or other
14 legal authority relied on by the decision; and

15 “(4) to indicate whether the decision departed
16 from any prior decision of the Court or Court of Re-
17 view.

18 “(c) DOCUMENTS DESCRIBED.—The Attorney Gen-
19 eral shall satisfy the disclosure requirements in subsection
20 (b) by—

21 “(1) releasing a Court or Court of Review deci-
22 sion in its entirety or as redacted;

23 “(2) releasing a summary of a Court or Court
24 of Review decision; or

1 “(3) releasing an application made to the
2 Court, briefs filed before the Court or the Court of
3 Review, or other materials, in full or as redacted.

4 “(d) EXTENSIVE DISCLOSURE.—The Attorney Gen-
5 eral shall release as much information regarding the facts
6 and analysis contained in a decision described in sub-
7 section (a) or documents described in subsection (c) as is
8 consistent with legitimate national security concerns.

9 “(e) TIMING OF DISCLOSURE.—

10 “(1) DECISIONS ISSUED PRIOR TO ENACT-
11 MENT.—The Attorney General shall disclose a deci-
12 sion issued prior to the date of the enactment of the
13 USA FREEDOM Act that is required to be dis-
14 closed under subsection (a)(1) not later than 180
15 days after the date of the enactment of such Act.

16 “(2) FISA COURT DECISIONS.—The Attorney
17 General shall release Court decisions appealed by the
18 Special Advocate not later than 30 days after the
19 date on which the appeal is filed.

20 “(3) FISA COURT OF REVIEW DECISIONS.—The
21 Attorney General shall release Court of Review deci-
22 sions for which the Special Advocate seeks a writ of
23 certiorari not later than 90 days after the date on
24 which the petition is filed.

25 “(f) PETITION BY THE SPECIAL ADVOCATE.—

1 “(1) AUTHORITY TO PETITION.—The Special
2 Advocate may petition the Court or the Court of Re-
3 view to order—

4 “(A) the public disclosure of a decision of
5 the Court or Court of Review, and documents
6 or other material relevant to such a decision,
7 previously designated as classified information;
8 or

9 “(B) the release of an unclassified sum-
10 mary of such decisions and documents.

11 “(2) CONTENTS OF PETITION.—Each petition
12 filed under paragraph (1) shall contain a detailed
13 declassification proposal or a summary of the deci-
14 sion and documents that the Special Advocate pro-
15 poses to have released publicly.

16 “(3) ROLE OF THE ATTORNEY GENERAL.—

17 “(A) COPY OF PETITION.—The Special
18 Advocate shall provide to the Attorney General
19 a copy of each petition filed under paragraph
20 (1).

21 “(B) OPPOSITION.—The Attorney General
22 may oppose a petition filed under paragraph (1)
23 by submitting any objections in writing to the
24 Court or the Court of Review, as appropriate,

1 not later than 90 days after the date such peti-
2 tion was submitted.

3 “(4) PUBLIC AVAILABILITY.—Not less than 91
4 days after receiving a petition under paragraph (1),
5 and taking into account any objections from the At-
6 torney General made under paragraph (3)(B), the
7 Court or the Court of Review, as appropriate, shall
8 declassify and make readily available to the public
9 any decision, document, or other material requested
10 in such petition, to the greatest extent possible, con-
11 sistent with legitimate national security consider-
12 ations.

13 “(5) EFFECTIVE DATE.—The Special Advocate
14 may not file a petition under paragraph (1) until
15 181 days after the date of the enactment of the
16 USA FREEDOM Act, except with respect to a deci-
17 sion appealed by the Special Advocate.

18 **“SEC. 906. ANNUAL REPORT TO CONGRESS.**

19 “(a) REQUIREMENT FOR ANNUAL REPORT.—The
20 Special Advocate shall submit to Congress an annual re-
21 port on the implementation of this title.

22 “(b) CONTENTS.—Each annual report submitted
23 under subsection (a) shall—

24 “(1) detail the activities of the Office of the
25 Special Advocate;

1 “(2) provide an assessment of the effectiveness
2 of this title; and

3 “(3) propose any new legislation to improve the
4 functioning of the Office or the operation of the For-
5 eign Intelligence Surveillance Court or the Foreign
6 Intelligence Surveillance Court of Review that the
7 Special Advocate considers appropriate.”.

8 (b) TABLE OF CONTENTS AMENDMENT.—The table
9 of contents in the first section of the Foreign Intelligence
10 Surveillance Act of 1978, as amended by section 101(c)(2)
11 of this Act, is further amended by adding at the end the
12 following new items:

“TITLE IX—OFFICE OF THE SPECIAL ADVOCATE

“Sec. 901. Definitions.

“Sec. 902. Office of the Special Advocate.

“Sec. 903. Advocacy before the Foreign Intelligence Surveillance Court.

“Sec. 904. Appellate review.

“Sec. 905. Disclosure.

“Sec. 906. Annual report to Congress.”.

13 **SEC. 402. FOREIGN INTELLIGENCE SURVEILLANCE COURT**
14 **DISCLOSURE OF OPINIONS.**

15 Section 103 of the Foreign Intelligence Surveillance
16 Act of 1978 (50 U.S.C. 1803) is amended—

17 (1) by redesignating subsections (g) and (h) as
18 subsections (h) and (i), respectively; and

19 (2) by inserting after subsection (f) the fol-
20 lowing new subsection:

21 “(g)(1) A judge of the court established under sub-
22 section (a) who authored an order, opinion, or other deci-

1 sion may sua sponte or on motion by a party request that
2 such order, opinion, or other decision be made publicly
3 available.

4 “(2) Upon a request under paragraph (1), the pre-
5 siding judge of the court established under subsection (a),
6 in consultation with the other judges of such court, may
7 direct that such order, opinion, or other decision be made
8 publicly available.

9 “(3) Prior to making an order, opinion, or other deci-
10 sion of the court established under subsection (a) publicly
11 available in accordance with this subsection, the presiding
12 judge of such court may direct the Executive branch to
13 review such order, opinion, or other decision and redact
14 such order, opinion, or other decision as necessary to en-
15 sure that properly classified information is appropriately
16 protected.”.

17 **SEC. 403. PRESERVATION OF RIGHTS.**

18 Nothing in this title or an amendment made by this
19 title shall be construed—

20 (1) to provide the Attorney General with au-
21 thority to prevent the court established under sec-
22 tion 103(a) of Foreign Intelligence Surveillance Act
23 of 1978 (50 U.S.C. 1803(a)), the petition review
24 pool established under section 103(e) of such Act
25 (50 U.S.C. 1803(e)), or the court of review estab-

1 lished under section 103(b) of such Act (50 U.S.C.
2 1803(b)) from declassifying decisions or releasing in-
3 formation pursuant to this title or an amendment
4 made by this title; or

5 (2) to eliminate the public’s ability to secure in-
6 formation under section 552 of title 5, United States
7 Code (commonly known as the “Freedom of Infor-
8 mation Act”) or any other provision of law.

9 **TITLE V—NATIONAL SECURITY**
10 **LETTER REFORMS**

11 **SEC. 501. NATIONAL SECURITY LETTER AUTHORITY.**

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

15 (1) in subsection (b)—

16 (A) by striking “may—” and all that fol-
17 lows through the period at the end and insert-
18 ing the following: “may request the name, ad-
19 dress, length of service, and local and long dis-
20 tance toll billing records of a person or entity
21 if the Director (or his designee) certifies in
22 writing to the wire or electronic communication
23 service provider to which the request is made
24 that—”; and

1 (B) by adding at the end the following new
2 paragraphs:

3 “(1) the name, address, length of service, and
4 toll billing records sought are relevant and material
5 to an authorized investigation to protect against
6 international terrorism or clandestine intelligence ac-
7 tivities, provided that such an investigation of a
8 United States person is not conducted solely on the
9 basis of activities protected by the First Amendment
10 to the Constitution of the United States; and

11 “(2) there are reasonable grounds to believe
12 that the name, address, length of service, and toll
13 billing records sought pertain to—

14 “(A) a foreign power or agent of a foreign
15 power;

16 “(B) the activities of a suspected agent of
17 a foreign power who is the subject of such au-
18 thorized investigation; or

19 “(C) an individual in contact with, or
20 known to, a suspected agent of a foreign
21 power.”; and

22 (2) by adding at the end the following new sub-
23 section:

24 “(g) For purposes of this subsection, the terms ‘agent
25 of a foreign power’, ‘foreign power’, ‘international ter-

rorism’, and ‘United States person’ have the same meanings as in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).”.

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

“SEC. 1114. ACCESS TO FINANCIAL RECORDS FOR CERTAIN INTELLIGENCE AND PROTECTIVE PURPOSES.

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or Special Agent in Charge in a Bureau field office, may issue in writing and cause to be served on a financial institution, a request requiring the production of—

“(A) the name of a customer of the financial institution;

“(B) the address of a customer of the financial institution;

“(C) the length of time during which a person has been, or was, a customer of the financial institution (including the start date)

1 and the type of service provided by the financial
2 institution to the customer; and

3 “(D) any account number or other unique
4 identifier associated with a customer of the fi-
5 nancial institution.

6 “(2) LIMITATION.—A request issued under this
7 subsection may not require the production of records
8 or information not listed in paragraph (1).

9 “(b) REQUIREMENTS.—

10 “(1) IN GENERAL.—A request issued under
11 subsection (a) shall—

12 “(A) be subject to the requirements of sub-
13 sections (d) through (g) of section 2709 of title
14 18, United States Code, in the same manner
15 and to the same extent as those provisions
16 apply with respect to a request under section
17 2709(b) of title 18, United States Code, to a
18 wire or electronic communication service pro-
19 vider; and

20 “(B) include a statement of facts showing
21 that there are reasonable grounds to believe
22 that the records or other things sought—

23 “(i) are relevant and material to an
24 authorized investigation (other than a
25 threat assessment and provided that such

1 an investigation of a United States person
2 is not conducted solely on the basis of ac-
3 tivities protected by the First Amendment
4 to the Constitution of the United States)
5 to—

6 “(I) obtain foreign intelligence
7 information not concerning a United
8 States person; or

9 “(II) protect against inter-
10 national terrorism or clandestine intel-
11 ligence activities; and

12 “(ii) pertain to—

13 “(I) a foreign power or an agent
14 of a foreign power;

15 “(II) the activities of a suspected
16 agent of a foreign power who is the
17 subject of such authorized investiga-
18 tion; or

19 “(III) an individual in contact
20 with, or known to, a suspected agent
21 of a foreign power.

22 “(2) DEFINITIONS.—For purposes of this sub-
23 section, the terms ‘agent of a foreign power’, ‘for-
24 eign intelligence information’, ‘foreign power’, ‘inter-
25 national terrorism’, and ‘United States person’ have

1 the same meanings as in section 101 of the Foreign
2 Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1801).

4 “(c) DEFINITION OF FINANCIAL INSTITUTION.—For
5 purposes of this section (and sections 1115 and 1117, in-
6 sofar as the sections relate to the operation of this sec-
7 tion), the term ‘financial institution’ has the same mean-
8 ing as in subsections (a)(2) and (c)(1) of section 5312 of
9 title 31, United States Code, except that the term shall
10 include only a financial institution any part of which is
11 located inside any State or territory of the United States,
12 the District of Columbia, Puerto Rico, Guam, American
13 Samoa, the Commonwealth of the Northern Mariana Is-
14 lands, or the United States Virgin Islands.”.

15 (c) NATIONAL SECURITY LETTER AUTHORITY FOR
16 CERTAIN CONSUMER REPORT RECORDS.—

17 (1) IN GENERAL.—Section 626 of the Fair
18 Credit Reporting Act (15 U.S.C. 1681u) is amend-
19 ed—

20 (A) by striking subsections (a) through (c)
21 and inserting the following new subsections:

22 “(a) AUTHORIZATION.—

23 “(1) IN GENERAL.—The Director of the Fed-
24 eral Bureau of Investigation, or a designee of the
25 Director whose rank shall be no lower than Deputy

1 Assistant Director at Bureau headquarters or Spe-
2 cial Agent in Charge in a Bureau field office, may
3 issue in writing and cause to be served on a con-
4 sumer reporting agency a request requiring the pro-
5 duction of—

6 “(A) the name of a consumer;

7 “(B) the current and former address of a
8 consumer;

9 “(C) the current and former places of em-
10 ployment of a consumer; and

11 “(D) the name and address of any finan-
12 cial institution (as that term is defined in sec-
13 tion 1101 of the Right to Financial Privacy Act
14 of 1978 (12 U.S.C. 3401)) at which a consumer
15 maintains or has maintained an account, to the
16 extent that the information is in the files of the
17 consumer reporting agency.

18 “(2) LIMITATION.—A request issued under this
19 subsection may not require the production of a con-
20 sumer report.

21 “(b) REQUIREMENTS.—

22 “(1) IN GENERAL.—A request issued under
23 subsection (a) shall—

24 “(A) be subject to the requirements of sub-
25 sections (d) through (g) of section 2709 of title

1 18, United States Code, in the same manner
2 and to the same extent as those provisions
3 apply with respect to a request under section
4 2709(b) of title 18, United States Code, to a
5 wire or electronic communication service pro-
6 vider; and

7 “(B) include a statement of facts showing
8 that there are reasonable grounds to believe
9 that the records or other things sought—

10 “(i) are relevant and material to an
11 authorized investigation (other than a
12 threat assessment and provided that such
13 an investigation of a United States person
14 is not conducted solely on the basis of ac-
15 tivities protected by the First Amendment
16 to the Constitution of the United States)
17 to—

18 “(I) obtain foreign intelligence
19 information not concerning a United
20 States person; or

21 “(II) protect against inter-
22 national terrorism or clandestine intel-
23 ligence activities; and

24 “(ii) pertain to—

1 “(I) a foreign power or an agent
2 of a foreign power;

3 “(II) the activities of a suspected
4 agent of a foreign power who is the
5 subject of such authorized investiga-
6 tion; or

7 “(III) an individual in contact
8 with, or known to, a suspected agent
9 of a foreign power.

10 “(2) DEFINITIONS.—In this subsection, the
11 terms ‘agent of a foreign power’, ‘foreign intelligence
12 information’, ‘foreign power’, ‘international ter-
13 rorism’, and ‘United States person’ have the mean-
14 ing given such terms in section 101 of the Foreign
15 Intelligence Surveillance Act of 1978 (50 U.S.C.
16 1801).”;

17 (B) by striking subsections (f) through (h);

18 and

19 (C) by redesignating subsections (d), (e),
20 (i), (j), (k), (l), and (m) as subsections (c), (d),
21 (e), (f), (g), (h), and (i), respectively.

22 (2) REPEAL.—Section 627 of the Fair Credit
23 Reporting Act (15 U.S.C. 1681v) is repealed.

1 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**
2 **CURITY LETTERS.**

3 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
4 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of
5 title 18, United States Code, is amended by striking sub-
6 section (c) and inserting the following 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 wire or electronic communica-
13 tion service provider, or officer, employee, or
14 agent thereof, that receives a request under
15 subsection (b), shall disclose to any person that
16 the Director of the Federal Bureau of Inves-
17 tigation has sought or obtained access to infor-
18 mation or records under this section.

19 “(B) CERTIFICATION.—The requirements
20 of subparagraph (A) shall apply if the Director
21 of the Federal Bureau of Investigation, or a
22 designee of the Director whose rank shall be no
23 lower than Deputy Assistant Director at Bu-
24 reau headquarters or a Special Agent in Charge
25 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) endangering the life or physical
4 safety of any person;

5 “(ii) flight from investigation or pros-
6 ecution;

7 “(iii) destruction of or tampering with
8 evidence;

9 “(iv) intimidation of potential wit-
10 nesses;

11 “(v) interference with diplomatic rela-
12 tions;

13 “(vi) alerting a target, an associate of
14 a target, or the foreign power of which the
15 target is an agent, of the interest of the
16 Government in the target; or

17 “(vii) otherwise seriously endangering
18 the national security of the United States.

19 “(2) EXCEPTION.—

20 “(A) IN GENERAL.—A wire or electronic
21 communication service provider, or officer, em-
22 ployee, or agent thereof, that receives a request
23 under subsection (b) may disclose information
24 otherwise subject to any applicable nondisclo-
25 sure requirement to—

1 “(i) those persons to whom disclosure
2 is necessary in order to comply with the re-
3 quest;

4 “(ii) an attorney in order to obtain
5 legal advice or assistance regarding the re-
6 quest; or

7 “(iii) other persons as permitted by
8 the Director of the Federal Bureau of In-
9 vestigation or the designee of the Director.

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

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

22 “(D) IDENTIFICATION OF DISCLOSURE RE-
23 CIPIENTS.—At the request of the Director of
24 the Federal Bureau of Investigation or the des-
25 ignee of the Director, any person making or in-

1 tending to make a disclosure under clause (i) or
2 (iii) of subparagraph (A) shall identify to the
3 Director or such designee the person to whom
4 such disclosure will be made or to whom such
5 disclosure was made prior to the request.

6 “(3) TERMINATION.—In the case of any request
7 for which a recipient has submitted a notification or
8 filed a petition for judicial review under paragraph
9 (3)(B), if the facts supporting a nondisclosure re-
10 quirement cease to exist, an appropriate official of
11 the Federal Bureau of Investigation shall promptly
12 notify the wire or electronic service provider, or offi-
13 cer, employee, or agent thereof, subject to the non-
14 disclosure requirement that the nondisclosure re-
15 quirement is no longer in effect.”.

16 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
17 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
18 1114 of the Right to Financial Privacy Act of 1978 (12
19 U.S.C. 3414), as amended by section 501(b) of this Act,
20 is further amended—

21 (1) by redesignating subsection (c) as sub-
22 section (d); and

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

25 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

1 “(1) PROHIBITION.—

2 “(A) IN GENERAL.—If a certification is
3 issued under subparagraph (B) and notice of
4 the right to judicial review under subsection (d)
5 is provided, no financial institution, or officer,
6 employee, or agent thereof, that receives a re-
7 quest under subsection (a) shall disclose to any
8 person that the Federal Bureau of Investigation
9 has sought or obtained access to information or
10 records under subsection (a).

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

20 “(i) endangering the life or physical
21 safety of any person;

22 “(ii) flight from investigation or pros-
23 ecution;

24 “(iii) destruction of or tampering with
25 evidence;

1 “(iv) intimidation of potential wit-
2 nesses;

3 “(v) interference with diplomatic rela-
4 tions;

5 “(vi) alerting a target, an associate of
6 a target, or the foreign power of which the
7 target is an agent, of the interest of the
8 Government in the target; or

9 “(vii) otherwise seriously endangering
10 the national security of the United States.

11 “(2) EXCEPTION.—

12 “(A) IN GENERAL.—A financial institu-
13 tion, or officer, employee, or agent thereof, that
14 receives a request under subsection (a) may dis-
15 close information otherwise subject to any ap-
16 plicable nondisclosure requirement to—

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

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

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

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

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

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

22 “(3) TERMINATION.—In the case of any request
23 for which a financial institution has submitted a no-
24 tification or filed a petition for judicial review under
25 paragraph (3)(B), if the facts supporting a non-

1 disclosure requirement cease to exist, an appropriate
2 official of the Federal Bureau of Investigation shall
3 promptly notify the financial institution, or officer,
4 employee, or agent thereof, subject to the nondisclo-
5 sure requirement that the nondisclosure requirement
6 is no longer in effect.”.

7 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
8 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
9 porting Act (15 U.S.C. 1681u), as amended by section
10 501(c) of this Act, is further amended by striking sub-
11 section (c) (as redesignated by section 501(c)(1)(D) of this
12 Act) and inserting the following new subsection:

13 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

14 “(1) PROHIBITION.—

15 “(A) IN GENERAL.—If a certification is
16 issued under subparagraph (B) and notice of
17 the right to judicial review under subsection (d)
18 is provided, no consumer reporting agency, or
19 officer, employee, or agent thereof, that receives
20 a request under subsection (a) shall disclose or
21 specify in any consumer report, that the Fed-
22 eral Bureau of Investigation has sought or ob-
23 tained access to information or records under
24 subsection (a) or (b).

1 “(B) CERTIFICATION.—The requirements
2 of subparagraph (A) shall apply if the Director
3 of the Federal Bureau of Investigation, or a
4 designee of the Director whose rank shall be no
5 lower than Deputy Assistant Director at Bu-
6 reau headquarters or a Special Agent in Charge
7 of a Bureau field office, certifies that the ab-
8 sence of a prohibition of disclosure under this
9 subsection may result in—

10 “(i) endangering the life or physical
11 safety of any person;

12 “(ii) flight from investigation or pros-
13 ecution;

14 “(iii) destruction of or tampering with
15 evidence;

16 “(iv) intimidation of potential wit-
17 nesses;

18 “(v) interference with diplomatic rela-
19 tions;

20 “(vi) alerting a target, an associate of
21 a target, or the foreign power of which the
22 target is an agent, of the interest of the
23 Government in the target; or

24 “(vii) otherwise seriously endangering
25 the national security of the United States.

1 “(2) EXCEPTION.—

2 “(A) IN GENERAL.—A consumer reporting
3 agency, or officer, employee, or agent thereof,
4 that receives a request under subsection (a)
5 may disclose information otherwise subject to
6 any applicable nondisclosure requirement to—

7 “(i) those persons to whom disclosure
8 is necessary in order to comply with the re-
9 quest;

10 “(ii) an attorney in order to obtain
11 legal advice or assistance regarding the re-
12 quest; or

13 “(iii) other persons as permitted by
14 the Director of the Federal Bureau of In-
15 vestigation or the designee of the Director.

16 “(B) APPLICATION.—A person to whom
17 disclosure is made under subparagraph (A)
18 shall be subject to the nondisclosure require-
19 ments applicable to a person to whom a request
20 is issued under subsection (a) or (b) in the
21 same manner as the person to whom the re-
22 quest is issued.

23 “(C) NOTICE.—Any recipient that dis-
24 closes to a person described in subparagraph
25 (A) information otherwise subject to a non-

1 disclosure requirement shall inform the person
2 of the applicable nondisclosure requirement.

3 “(D) IDENTIFICATION OF DISCLOSURE RE-
4 CIPIENTS.—At the request of the Director of
5 the Federal Bureau of Investigation or the des-
6 ignee of the Director, any person making or in-
7 tending to make a disclosure under clause (i) or
8 (iii) of subparagraph (A) shall identify to the
9 Director or such designee the person to whom
10 such disclosure will be made or to whom such
11 disclosure was made prior to the request.

12 “(3) TERMINATION.—In the case of any request
13 for which a consumer reporting agency has sub-
14 mitted a notification or filed a petition for judicial
15 review under paragraph (3)(B), if the facts sup-
16 porting a nondisclosure requirement cease to exist,
17 an appropriate official of the Federal Bureau of In-
18 vestigation shall promptly notify the consumer re-
19 porting agency, or officer, employee, or agent there-
20 of, subject to the nondisclosure requirement that the
21 nondisclosure requirement is no longer in effect.”.

22 (d) INVESTIGATIONS OF PERSONS WITH ACCESS TO
23 CLASSIFIED INFORMATION.—Section 802 of the National
24 Security Act of 1947 (50 U.S.C. 3162) is amended by

1 striking subsection (b) and inserting the following new
2 subsection:

3 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

4 “(1) PROHIBITION.—

5 “(A) IN GENERAL.—If a certification is
6 issued under subparagraph (B) and notice of
7 the right to judicial review under subsection (c)
8 is provided, no governmental or private entity,
9 or officer, employee, or agent thereof, that re-
10 ceives a request under subsection (a), shall dis-
11 close to any person that an authorized inves-
12 tigative agency described in subsection (a) has
13 sought or obtained access to information under
14 subsection (a).

15 “(B) CERTIFICATION.—The requirements
16 of subparagraph (A) shall apply if the head of
17 an authorized investigative agency described in
18 subsection (a), or a designee, certifies that the
19 absence of a prohibition of disclosure under this
20 subsection may result in—

21 “(i) endangering the life or physical
22 safety of any person;

23 “(ii) flight from investigation or pros-
24 ecution;

1 “(iii) destruction of or tampering with
2 evidence;

3 “(iv) intimidation of potential wit-
4 nesses;

5 “(v) interference with diplomatic rela-
6 tions;

7 “(vi) alerting a target, an associate of
8 a target, or the foreign power of which the
9 target is an agent, of the interest of the
10 Government in the target; or

11 “(vii) otherwise seriously endangering
12 the national security of the United States.

13 “(2) EXCEPTION.—

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

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 head of an
18 authorized investigative agency described in
19 subsection (a), or a designee, any person mak-
20 ing or intending to make a disclosure under
21 clause (i) or (iii) of subparagraph (A) shall
22 identify to the head of the authorized investiga-
23 tive agency or such designee the person to
24 whom such disclosure will be made or to whom
25 such disclosure was made prior to the request.

1 “(3) TERMINATION.—In the case of any request
2 for which a governmental or private entity has sub-
3 mitted a notification or filed a petition for judicial
4 review under paragraph (3)(B), if the facts sup-
5 porting a nondisclosure requirement cease to exist,
6 an appropriate official of the authorized investigative
7 agency described in subsection (a) shall promptly no-
8 tify the governmental or private entity, or officer,
9 employee, or agent thereof, subject to the nondisclo-
10 sure requirement that the nondisclosure requirement
11 is no longer in effect.”.

12 (e) JUDICIAL REVIEW.—Section 3511 of title 18,
13 United States Code, is amended by striking subsection (b)
14 and inserting the following new subsection:

15 “(b) NONDISCLOSURE.—

16 “(1) IN GENERAL.—

17 “(A) NOTICE.—If a recipient of a request
18 for a report, records, or other information
19 under section 2709 of this title, section 626 of
20 the Fair Credit Reporting Act (15 U.S.C.
21 1681u), section 1114 of the Right to Financial
22 Privacy Act of 1978 (12 U.S.C. 3414), or sec-
23 tion 802 of the National Security Act of 1947
24 (50 U.S.C. 3162), wishes to have a court review
25 a nondisclosure requirement imposed in connec-

1 tion with the request, the recipient may notify
2 the Government or file a petition for judicial re-
3 view in any court described in subsection (a).

4 “(B) APPLICATION.—Not later than 30
5 days after the date of receipt of a notification
6 under subparagraph (A), the Government shall
7 apply for an order prohibiting the disclosure of
8 the existence or contents of the relevant re-
9 quest. An application under this subparagraph
10 may be filed in the district court of the United
11 States for the judicial district in which the re-
12 cipient of the order is doing business or in the
13 district court of the United States for any judi-
14 cial district within which the authorized inves-
15 tigation that is the basis for the request is
16 being conducted. The applicable nondisclosure
17 requirement shall remain in effect during the
18 pendency of proceedings relating to the require-
19 ment.

20 “(C) CONSIDERATION.—A district court of
21 the United States that receives a petition under
22 subparagraph (A) or an application under sub-
23 paragraph (B) should rule expeditiously, and
24 shall, subject to paragraph (3), issue a non-

1 disclosure order that includes conditions appro-
2 priate to the circumstances.

3 “(2) APPLICATION CONTENTS.—An application
4 for a nondisclosure order or extension thereof or a
5 response to a petition filed under paragraph (1)
6 shall include a certification from the Attorney Gen-
7 eral, Deputy Attorney General, an Assistant Attor-
8 ney General, or the Director of the Federal Bureau
9 of Investigation, or in the case of a request by a de-
10 partment, agency, or instrumentality of the Federal
11 Government other than the Department of Justice,
12 the head or deputy head of the department, agency,
13 or instrumentality, containing a statement of specific
14 facts indicating that the absence of a prohibition of
15 disclosure under this subsection may result in—

16 “(A) endangering the life or physical safety
17 of any person;

18 “(B) flight from investigation or prosecu-
19 tion;

20 “(C) destruction of or tampering with evi-
21 dence;

22 “(D) intimidation of potential witnesses;

23 “(E) interference with diplomatic relations;

24 “(F) alerting a target, an associate of a
25 target, or the foreign power of which the target

1 is an agent, of the interest of the Government
2 in the target; or

3 “(G) otherwise seriously endangering the
4 national security of the United States.

5 “(3) STANDARD.—A district court of the
6 United States shall issue a nondisclosure require-
7 ment order or extension thereof under this sub-
8 section if the court determines that there is reason
9 to believe that disclosure of the information subject
10 to the nondisclosure requirement during the applica-
11 ble time period will result in—

12 “(A) endangering the life or physical safety
13 of any person;

14 “(B) flight from investigation or prosecu-
15 tion;

16 “(C) destruction of or tampering with evi-
17 dence;

18 “(D) intimidation of potential witnesses;

19 “(E) interference with diplomatic relations;

20 “(F) alerting a target, an associate of a
21 target, or the foreign power of which the target
22 is an agent, of the interest of the Government
23 in the target; or

24 “(G) otherwise seriously endangering the
25 national security of the United States.”.

1 **SEC. 503. JUDICIAL REVIEW.**

2 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
3 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of
4 title 18, United States Code, as amended by section
5 501(a) of this Act, is further amended—

6 (1) by redesignating subsections (d), (e), (f),
7 and (g) as subsections (e), (f), (g), and (h), respec-
8 tively; and

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

11 “(d) JUDICIAL REVIEW.—

12 “(1) IN GENERAL.—A request under subsection
13 (b) or a non-disclosure requirement imposed in con-
14 nection with such request under subsection (c) shall
15 be subject to judicial review under section 3511.

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

19 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
20 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
21 1114 of the Right to Financial Privacy Act of 1978 (12
22 U.S.C. 3414), as amended by section 502(b) of this Act,
23 is further amended—

24 (1) by redesignating subsection (d) (as redesign-
25 nated by such section 502(b)) as subsection (e); and

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

3 “(d) JUDICIAL REVIEW.—

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

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

12 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
13 CREDIT REPORTS.—Section 626 of the Right to Financial
14 Privacy Act (15 U.S.C. 1681u), as amended by section
15 502(e) of this Act, is further amended—

16 (1) by redesignating subsections (d) through (i)
17 (as redesignated by such section 502(e)) as sub-
18 sections (e) through (j), respectively; and

19 (2) by inserting after subsection (c) the fol-
20 lowing new subsection:

21 “(d) JUDICIAL REVIEW.—

22 “(1) IN GENERAL.—A request under subsection
23 (a) or a non-disclosure requirement imposed in con-
24 nection with such request under subsection (c) shall

1 be subject to judicial review under section 3511 of
2 title 18, United States Code.

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

6 (d) 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—

9 (1) by redesignating subsections (c) through (e)
10 as subsections (d) through (f), respectively; and

11 (2) by inserting after subsection (b) the fol-
12 lowing new subsection:

13 “(c) JUDICIAL REVIEW.—

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

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

1 **SEC. 504. INSPECTOR GENERAL REPORTS ON NATIONAL SE-**
2 **CURITY LETTERS.**

3 Section 119 of the USA PATRIOT Improvement and
4 Reauthorization Act of 2005 (Public Law 109–177; 120
5 Stat. 219) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by inserting “and
8 calendar years 2010 through 2013” after
9 “2006”; and

10 (B) in paragraph (3)(C), by striking “(as
11 such term is defined in section 3(4) of the Na-
12 tional Security Act of 1947 (50 U.S.C.
13 401a(4)))”;

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

16 “(3) CALENDAR YEARS 2010 THROUGH 2013.—
17 Not later than December 31, 2014, the Inspector
18 General of the Department of Justice shall submit
19 to the Committee on the Judiciary and the Perma-
20 nent Select Committee on Intelligence of the House
21 of Representatives and the Committee on the Judici-
22 ary and the Select Committee on Intelligence of the
23 Senate a report containing the results of the audit
24 conducted under subsection (a) for calendar years
25 2010 through 2013.”;

1 (3) by striking subsection (g) and inserting the
2 following new subsection:

3 “(h) DEFINITIONS.—In this section:

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

8 “(2) NATIONAL SECURITY LETTER.—The term
9 ‘national security letter’ means a request for infor-
10 mation under—

11 “(A) section 2709(b) of title 18, United
12 States Code (to access certain communication
13 service provider records);

14 “(B) section 1114 of the Right to Finan-
15 cial Privacy Act of 1978 (12 U.S.C.
16 3414(a)(5)(A)) (to obtain financial institution
17 customer records);

18 “(C) section 802 of the National Security
19 Act of 1947 (50 U.S.C. 3162) (to obtain finan-
20 cial information, records, and consumer re-
21 ports); or

22 “(D) section 626 of the Fair Credit Re-
23 porting Act (15 U.S.C. 1681u) (to obtain cer-
24 tain financial information and consumer re-
25 ports).

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

5 (4) by redesignating subsections (d), (e), and
6 (f) as subsections (e), (f), and (g), respectively;

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

9 “(d) INTELLIGENCE ASSESSMENT.—

10 “(1) IN GENERAL.—For the period beginning
11 on January 1, 2010, and ending on December 31,
12 2013, the Inspector General of the Intelligence Com-
13 munity shall—

14 “(A) examine the use of national security
15 letters by the intelligence community during the
16 period;

17 “(B) describe any noteworthy facts or cir-
18 cumstances relating to the use of national secu-
19 rity letters by the intelligence community, in-
20 cluding any improper or illegal use of such au-
21 thority;

22 “(C) assess the importance of information
23 received under the national security letters to
24 the activities of the intelligence community; and

1 “(D) examine the manner in which infor-
2 mation received under the national security let-
3 ters was collected, retained, analyzed, and dis-
4 seminated.

5 “(2) SUBMISSION DATE FOR ASSESSMENT.—
6 Not later than December 31, 2014, the Inspector
7 General of the Intelligence Community shall submit
8 to the Committee on the Judiciary and the Select
9 Committee on Intelligence of the Senate and the
10 Committee on the Judiciary and the Permanent Se-
11 lect Committee on Intelligence of the House of Rep-
12 resentatives a report containing the results of the
13 assessment for calendar years 2010 through 2013.”;

14 (6) in subsection (e), as redesignated by para-
15 graph (4)—

16 (A) in paragraph (1)—

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

20 (ii) by striking “Inspector General of
21 the Department of Justice” and inserting
22 “Inspector General of the Department of
23 Justice, the Inspector General of the Intel-
24 ligence Community, and any Inspector
25 General of an element of the intelligence

1 community that prepares a report to assist
2 the Inspector General of the Department
3 of Justice or the Inspector General of the
4 Intelligence Community in complying with
5 the requirements of this section”; and

6 (B) in paragraph (2), by striking “the re-
7 ports submitted under subsection (c)(1) or
8 (c)(2)” and inserting “any report submitted
9 under subsection (c) or (d)”;

10 (7) in subsection (f), as redesignated by para-
11 graph (4)—

12 (A) by striking “The reports submitted
13 under subsections (c)(1) or (c)(2)” and insert-
14 ing “Each report submitted under subsection
15 (c)”;

16 (B) by striking “subsection (d)(2)” and in-
17 serting “subsection (e)(2)”.

18 **SEC. 505. NATIONAL SECURITY LETTER SUNSET.**

19 (a) REPEAL.—Effective on June 1, 2015—

20 (1) section 2709 of title 18, United States
21 Code, is amended to read as such provision read on
22 October 25, 2001;

23 (2) section 1114 of the Right to Financial Pri-
24 vacy Act of 1978 (12 U.S.C. 3414(a)(5)) is amended
25 to read as such provision read on October 25, 2001;

1 (3) subsections (a) and (b) of section 626 of the
2 Fair Credit Reporting Act (15 U.S.C. 1681u) are
3 amended to read as subsections (a) and (b), respec-
4 tively, of the second of the 2 sections designated as
5 section 624 of such Act (15 U.S.C. 1681u) (relating
6 to disclosure to the Federal Bureau of Investigation
7 for counterintelligence purposes), as added by sec-
8 tion 601 of the Intelligence Authorization Act for
9 Fiscal Year 1996 (Public Law 104–93; 109 Stat.
10 974), read on October 25, 2001; and

11 (4) section 802 of the National Security Act of
12 1947 (50 U.S.C. 3162) is amended to read as such
13 provision read on October 25, 2001.

14 (b) **TRANSITION PROVISION.**—Notwithstanding sub-
15 section (a), the provisions of law referred to in subsection
16 (a), as in effect on May 31, 2015, shall continue to apply
17 on and after June 1, 2015, with respect to any particular
18 foreign intelligence investigation or with respect to any
19 particular offense or potential offense that began or oc-
20 curred before June 1, 2015.

21 **SEC. 506. TECHNICAL AND CONFORMING AMENDMENTS.**

22 Section 3511 of title 18, United States Code, is
23 amended in subsections (a), (c), and (d), by striking “or
24 627(a)” each place it appears.

1 **TITLE VI—FISA AND NATIONAL**
2 **SECURITY LETTER TRANS-**
3 **PARENCY REFORMS**

4 **SEC. 601. THIRD-PARTY REPORTING ON FISA ORDERS AND**
5 **NATIONAL SECURITY LETTERS.**

6 (a) IN GENERAL.—Each electronic service provider
7 may report information to the public in accordance with
8 this section about demands and requests for information
9 made by any Government entity under a surveillance law,
10 and is exempt in accordance with subsection (d) from li-
11 ability with respect to that report, even if such provider
12 would otherwise be prohibited by a surveillance law from
13 reporting that information.

14 (b) PERIODIC AGGREGATE REPORTS.—An electronic
15 service provider may report such information not more
16 often than quarterly and only to the following extent:

17 (1) ESTIMATE OF NUMBERS OF DEMANDS AND
18 REQUESTS MADE.—The report may reveal an esti-
19 mate of the number of the demands and requests de-
20 scribed in subsection (a) made during the period to
21 which the report pertains.

22 (2) ESTIMATE OF NUMBERS OF DEMANDS AND
23 REQUESTS COMPLIED WITH.—The report may reveal
24 an estimate of the numbers of the demands and re-
25 quests described in subsection (a) the electronic

1 service provider complied with during the period to
2 which the report pertains, regardless of when the de-
3 mands or requests were made.

4 (3) ESTIMATE OF NUMBER OF USERS OR AC-
5 COUNTS.—The report may reveal an estimate of the
6 numbers of users or accounts, or both, of the elec-
7 tronic service provider, for which information was
8 demanded, requested, or provided during the period
9 to which the report pertains.

10 (c) SPECIAL RULES FOR REPORTS.—

11 (1) LEVEL OF DETAIL BY AUTHORIZING SUR-
12 VEILLANCE LAW.—Any estimate disclosed under this
13 section may be an overall estimate or broken down
14 by categories of authorizing surveillance laws or by
15 provisions of authorizing surveillance laws.

16 (2) LEVEL OF DETAIL BY NUMERICAL
17 RANGE.—Each estimate disclosed under this section
18 shall be rounded to the nearest 100. If an estimate
19 is zero, an electronic service provider may report the
20 estimate as zero.

21 (3) REPORT MAY BE BROKEN DOWN BY PERI-
22 ODS NOT LESS THAN CALENDAR QUARTERS.—For
23 any reporting period, an electronic service provider
24 may break down the report by calendar quarters or

1 any other time periods greater than a calendar quar-
2 ter.

3 (d) LIMITATION ON LIABILITY.—An electronic serv-
4 ice provider making a report that the electronic service
5 provider reasonably believes in good faith is authorized by
6 this section is not criminally or civilly liable in any court
7 for making the report.

8 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to prohibit disclosures other than
10 those authorized by this section.

11 (f) DEFINITIONS.—In this section:

12 (1) ELECTRONIC SERVICE PROVIDER.—The
13 term “electronic service provider” means an elec-
14 tronic communications service provider (as that term
15 is defined in section 2510 of title 18, United States
16 Code) or a remote computing service provider (as
17 that term is defined in section 2711 of title 18,
18 United States Code).

19 (2) SURVEILLANCE LAW.—The term “surveil-
20 lance law” means any provision of any of the fol-
21 lowing:

22 (A) The Foreign Intelligence Surveillance
23 Act of 1978 (50 U.S.C. 1801 et seq.).

24 (B) Section 802(a) of the National Secu-
25 rity Act of 1947 (50 U.S.C. 436(a)).

1 (C) Section 2709 of title 18, United States
2 Code.

3 (D) Section 1114 of the Right to Financial
4 Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)).

5 (E) Subsection (a) or (b) of section 626 of
6 the Fair Credit Reporting Act (15 U.S.C.
7 1681u(a), 1681u(b)).

8 (F) Section 627(a) of the Fair Credit Re-
9 porting Act (15 U.S.C. 1681v(a)) (as in effect
10 on the day before the date of the enactment of
11 this Act).

12 **SEC. 602. GOVERNMENT REPORTING ON FISA ORDERS.**

13 (a) ELECTRONIC SURVEILLANCE.—

14 (1) REPORT OF ELECTRONIC SURVEILLANCE.—
15 Section 107 of the Foreign Intelligence Surveillance
16 Act of 1978 (50 U.S.C. 1807) is amended—

17 (A) by redesignating subsections (a) and
18 (b) as paragraphs (1) and (2), respectively;

19 (B) in the matter preceding paragraph (1)
20 (as redesignated by subparagraph (A) of this
21 paragraph)—

22 (i) by striking “In April” and insert-
23 ing “(a) In April”; and

24 (ii) by striking “Congress” and insert-
25 ing “the Permanent Select Committee on

1 Intelligence and the Committee on the Ju-
2 diciary of the House of Representatives
3 and the Select Committee on Intelligence
4 and the Committee on the Judiciary of the
5 Senate”;

6 (C) in subsection (a) (as designated by
7 subparagraph (B) of this paragraph)—

8 (i) in paragraph (1) (as redesignated
9 by subparagraph (A) of this paragraph),
10 by striking “; and” and inserting a semi-
11 colon;

12 (ii) in paragraph (2) (as so redesign-
13 ated), by striking the period and inserting
14 a semicolon; and

15 (iii) by adding at the end the fol-
16 lowing new paragraphs:

17 “(3) the total number of individuals who were
18 subject to electronic surveillance conducted under an
19 order entered under this title, rounded to the nearest
20 100; and

21 “(4) the total number of United States persons
22 who were subject to electronic surveillance conducted
23 under an order entered under this title, rounded to
24 the nearest 100.”; and

1 (D) by adding at the end the following new
2 subsection:

3 “(b)(1) Each report required under subsection (a)
4 shall be submitted in unclassified form.

5 “(2) Not later than 7 days after a report is submitted
6 under subsection (a), the Attorney General shall make
7 such report publicly available.”.

8 (2) CONGRESSIONAL OVERSIGHT.—Section
9 108(a)(1) of the Foreign Intelligence Surveillance
10 Act of 1978 (50 U.S.C. 1808) is amended by strik-
11 ing “the House Permanent Select Committee on In-
12 telligence and the Senate Select Committee on Intel-
13 ligence, and the Committee on the Judiciary of the
14 Senate” and inserting “the Permanent Select Com-
15 mittee on Intelligence and the Committee on the Ju-
16 diciary of the House of Representatives and the Se-
17 lect Committee on Intelligence and the Committee
18 on the Judiciary of the Senate”.

19 (b) PHYSICAL SEARCHES.—Section 306 of the For-
20 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
21 1826) is amended—

22 (1) in the first sentence, by striking “Perma-
23 nent Select Committee on Intelligence of the House
24 of Representatives and the Select Committee on In-
25 telligence of the Senate, and the Committee on the

1 Judiciary of the Senate” and inserting “Permanent
2 Select Committee on Intelligence and the Committee
3 on the Judiciary of the House of Representatives
4 and the Select Committee on Intelligence and the
5 Committee on the Judiciary of the Senate”; and

6 (2) in the second sentence, by striking “and the
7 Committee on the Judiciary of the House of Rep-
8 resentatives”.

9 (c) PEN REGISTER AND TRAP AND TRACE DE-
10 VICES.—Section 406 of the Foreign Intelligence Surveil-
11 lance Act of 1978 (50 U.S.C. 1846) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2), by striking “; and”
14 and inserting a semicolon;

15 (B) in paragraph (3), by striking the pe-
16 riod and inserting a semicolon; and

17 (C) by adding at the end the following new
18 paragraphs:

19 “(4) each department or agency on behalf of
20 which the Government has made application for or-
21 ders approving the use of pen registers or trap and
22 trace devices under this title;

23 “(5) for each department or agency described in
24 paragraph (4), a breakdown of the numbers required
25 by paragraphs (1), (2), and (3);

1 “(6) a good faith estimate of the total number
2 of individuals who were targeted by the installation
3 and use of a pen register or trap and trace device
4 authorized under an order entered under this title,
5 rounded to the nearest 100;

6 “(7) a good faith estimate of the total number
7 of United States persons who were targeted by the
8 installation and use of a pen register or trap and
9 trace device authorized under an order entered
10 under this title, rounded to the nearest 100; and

11 “(8) a good faith estimate of the total number
12 of United States persons who were targeted by the
13 installation and use of a pen register or trap and
14 trace device authorized under an order entered
15 under this title and whose information acquired by
16 such pen register or trap and trace device was sub-
17 sequently reviewed or accessed by a Federal officer,
18 employee, or agent, rounded to the nearest 100.”;
19 and

20 (2) by adding at the end the following new sub-
21 section:

22 “(c)(1) Each report required under subsection (b)
23 shall be submitted in unclassified form.

1 “(2) Not later than 7 days after a report is submitted
2 under subsection (b), the Attorney General shall make
3 such report publicly available.”.

4 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
5 OTHER TANGIBLE THINGS.—Section 503 of the Foreign
6 Intelligence Surveillance Act of 1978, as redesignated by
7 section 101(c) of this Act, is amended—

8 (1) in subsection (a), by striking “Permanent
9 Select Committee on Intelligence of the House of
10 Representatives and the Select Committee on Intel-
11 ligence and the Committee on the Judiciary of the
12 Senate” and inserting after “Permanent Select
13 Committee on Intelligence of the House of Rep-
14 resentatives, the Select Committee on Intelligence of
15 the Senate, and the Committees on the Judiciary of
16 the House of Representatives and the Senate”;

17 (2) in subsection (b)—

18 (A) in the matter preceding paragraph (1),
19 by striking “to the preceding calendar year—”
20 and inserting “to the preceding calendar year
21 the following:”;

22 (B) in paragraph (1)—

23 (i) by striking “the total” and insert-
24 ing “The total”; and

1 (ii) by striking the semicolon and in-
2 serting a period;

3 (C) in paragraph (2)—

4 (i) by striking “the total” and insert-
5 ing “The total”; and

6 (ii) by striking “; and” and inserting
7 a period;

8 (D) in paragraph (3)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “the number” and
11 inserting “The number”; and

12 (ii) by adding at the end the following
13 new subparagraphs:

14 “(F) Records concerning electronic com-
15 munications.

16 “(G) Records concerning wire communica-
17 tions.”; and

18 (E) by adding at the end the following new
19 paragraphs:

20 “(4) A description of all other tangible things
21 sought by an application made for the production of
22 any tangible things under section 501, and the num-
23 ber of orders under such section 501 granted, modi-
24 fied, or denied, for each tangible thing.

1 “(5) A description of each order under section
2 501 granted, modified, or denied for the production
3 of tangible things on an ongoing basis.

4 “(6) Each department or agency on whose be-
5 half the Director of the Federal Bureau of Investiga-
6 tion or a designee of the Director has made an ap-
7 plication for an order requiring the production of
8 any tangible things under section 501.

9 “(7) For each department or agency described
10 in paragraph (6), a breakdown of the numbers and
11 descriptions required by paragraphs (1), (2), (3),
12 (4), and (5).”; and

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) in subparagraph (A), by striking “;
16 and” and inserting a semicolon;

17 (ii) in subparagraph (B), by striking
18 the period and inserting a semicolon; and

19 (iii) by adding at the end the fol-
20 lowing new subparagraphs:

21 “(C) a good faith estimate of the total number
22 of individuals whose tangible things were produced
23 under an order entered under section 501, rounded
24 to the nearest 100;

1 “(D) a good faith estimate of the total number
2 of United States persons whose tangible things were
3 produced under an order entered under section 501,
4 rounded to the nearest 100; and

5 “(E) a good faith estimate of the total number
6 of United States persons whose tangible things were
7 produced under an order entered under section 501
8 and subsequently reviewed or accessed by a Federal
9 officer, employee, or agent, rounded to the nearest
10 100.”; and

11 (B) by adding at the end the following new
12 paragraph:

13 “(3) Not later than 7 days after the date on which
14 a report is submitted under paragraph (1), the Attorney
15 General shall make such report publicly available.”.

16 (e) ADDITIONAL PROCEDURES REGARDING CERTAIN
17 PERSONS OUTSIDE THE UNITED STATES.—Section 707
18 of the Foreign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1881f) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(c) ADDITIONAL ANNUAL REPORT.—

22 “(1) REPORT REQUIRED.—In April of each
23 year, the Attorney General shall submit to the Per-
24 manent Select Committee on Intelligence and the
25 Committee on the Judiciary of the House of Rep-

1 representatives and the Select Committee on Intel-
2 ligence and the Committee on the Judiciary of the
3 Senate a report setting forth with respect to the pre-
4 ceding year—

5 “(A) the total number of—

6 “(i) directives issued under section
7 702;

8 “(ii) orders granted under section
9 703; and

10 “(iii) orders granted under section
11 704;

12 “(B) good faith estimates of the total num-
13 ber of individuals, rounded to the nearest 100,
14 whose electronic or wire communications or
15 communications records were collected pursuant
16 to—

17 “(i) a directive issued under section
18 702;

19 “(ii) an order granted under section
20 703; and

21 “(iii) an order granted under section
22 704;

23 “(C) good faith estimates of the total num-
24 ber, rounded to the nearest 100, of United
25 States persons whose electronic or wire commu-

1 communications or communications records were col-
2 lected pursuant to—

3 “(i) a directive issued under section
4 702;

5 “(ii) an order granted under section
6 703; and

7 “(iii) an order granted under section
8 704; and

9 “(D) a good faith estimate of the total
10 number of United States persons whose elec-
11 tronic or wire communications or communica-
12 tions records were collected pursuant to a direc-
13 tive issued under section 702 and subsequently
14 reviewed or accessed by a Federal officer, em-
15 ployee, or agent, rounded to the nearest 100.

16 “(2) FORM.—Each report required under para-
17 graph (1) shall be submitted in unclassified form.

18 “(3) PUBLIC AVAILABILITY.—Not later than 7
19 days after the date on which a report is submitted
20 under paragraph (1), the Attorney General shall
21 make such report publicly available.”.

1 **SEC. 603. GOVERNMENT REPORTING ON NATIONAL SECUR-**
2 **RITY LETTERS.**

3 Section 118(c) of the USA PATRIOT Improvement
4 and Reauthorization Act of 2005 (18 U.S.C. 3511 note)
5 is amended to read as follows:

6 “(c) REPORT ON REQUESTS FOR NATIONAL SECUR-
7 RITY LETTERS.—

8 “(1) CLASSIFIED FORM.—

9 “(A) IN GENERAL.—Not later than March
10 1, 2015, and every 180 days thereafter, the At-
11 torney General shall submit to the Select Com-
12 mittee on Intelligence, the Committee on the
13 Judiciary, and the Committee on Banking,
14 Housing, and Urban Affairs of the Senate and
15 the Permanent Select Committee on Intel-
16 ligence, the Committee on the Judiciary, and
17 the Committee on Financial Services of the
18 House of Representatives a report fully inform-
19 ing the committees concerning the requests
20 made under section 2709(a) of title 18, United
21 States Code, section 1114 of the Right to Fi-
22 nancial Privacy Act of 1978 (12 U.S.C.
23 3414(a)(5)(A)), section 626 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681u), or section
25 802 of the National Security Act of 1947 (50
26 U.S.C. 3162) during the applicable period.

1 “(B) CONTENTS.—Each report under sub-
2 paragraph (A) shall include, for each provision
3 of law described in subparagraph (A)—

4 “(i) authorized requests under the
5 provision, including requests for subscriber
6 information; and

7 “(ii) the number of authorized re-
8 quests under the provision—

9 “(I) that relate to a United
10 States person;

11 “(II) that relate to a person that
12 is not a United States person;

13 “(III) that relate to a person
14 that is—

15 “(aa) the subject of an au-
16 thorized national security inves-
17 tigation; or

18 “(bb) an individual who has
19 been in contact with or otherwise
20 directly linked to the subject of
21 an authorized national security
22 investigation; and

23 “(IV) that relate to a person that
24 is not known to be the subject of an

1 authorized national security investiga-
2 tion.

3 “(2) UNCLASSIFIED FORM.—

4 “(A) IN GENERAL.—Not later than March
5 1, 2015, and every 180 days thereafter, the At-
6 torney General shall submit to the Select Com-
7 mittee on Intelligence, the Committee on the
8 Judiciary, and the Committee on Banking,
9 Housing, and Urban Affairs of the Senate and
10 the Permanent Select Committee on Intel-
11 ligence, the Committee on the Judiciary, and
12 the Committee on Financial Services of the
13 House of Representatives a report fully inform-
14 ing the committees concerning the aggregate
15 total of all requests identified under paragraph
16 (1) during the applicable period. Each report
17 under this paragraph shall be in unclassified
18 form.

19 “(B) CONTENTS.—Each report under sub-
20 paragraph (A) shall include the aggregate total
21 of requests—

22 “(i) that relate to a United States
23 person;

24 “(ii) that relate to a person that is
25 not a United States person;

1 “(iii) that relate to a person that is—

2 “(I) the subject of an authorized
3 national security investigation; or

4 “(II) an individual who has been
5 in contact with or otherwise directly
6 linked to the subject of an authorized
7 national security investigation; and

8 “(iv) that relate to a person that is
9 not known to be the subject of an author-
10 ized national security investigation.

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

12 “(A) APPLICABLE PERIOD.—The term ‘ap-
13 plicable period’ means—

14 “(i) with respect to the first report
15 submitted under paragraph (1) or (2), the
16 period beginning 180 days after the date
17 of enactment of the USA FREEDOM Act
18 and ending on December 31, 2014; and

19 “(ii) with respect to the second report
20 submitted under paragraph (1) or (2), and
21 each report thereafter, the 6-month period
22 ending on the last day of the second month
23 before the date for submission of the re-
24 port.

1 “(B) UNITED STATES PERSON.—The term
 2 ‘United States person’ has the meaning given
 3 that term in section 101 of the Foreign Intel-
 4 ligence Surveillance Act of 1978 (50 U.S.C.
 5 1801).”.

6 **TITLE VII—PRIVACY AND CIVIL**
 7 **LIBERTIES OVERSIGHT**
 8 **BOARD SUBPOENA AUTHOR-**
 9 **ITY**

10 **SEC. 701. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
 11 **BOARD SUBPOENA AUTHORITY.**

12 Section 1061(g) of the Intelligence Reform and Ter-
 13 rorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is
 14 amended—

15 (1) in paragraph (1)(D), by striking “submit a
 16 written request to the Attorney General of the
 17 United States that the Attorney General”;

18 (2) by striking paragraph (2); and

19 (3) by redesignating paragraphs (3) and (4) as
 20 paragraphs (2) and (3).

21 **TITLE VIII—SEVERABILITY**

22 **SEC. 801. SEVERABILITY.**

23 If any provision of this Act or an amendment made
 24 by this Act, or the application of the provision to any per-
 25 son or circumstance, is held to be unconstitutional, the

1 remainder of this Act and the amendments made by this
2 Act, and the application of the provisions of this Act and
3 the amendments made by this Act to any other person
4 or circumstance, shall not be affected thereby.

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