resolution; which was considered and agreed to:

S. CON. RES. 51
Resolved by the Senate (the House of Representa-
tives concurring), That when the Sena-
ate reecesses or adjourns at the close of busi-
ness of the day of Friday, September 2, 2005, on a motion offered pursuant
to this concurrent resolution by its Ma-
jority Leader or his designee, it stand re-
cessed or adjourned until 12 noon on Tues-
day, September 6, 2005, or until the time of
any reassembly pursuant to section 2 of this
 concurrent resolution, whichever occurs first;
That the House, when the Senate adjourns on the legisla-
tive day of Friday, September 2, 2005, on a motion offered pursuant to this
 concurrent resolution by its Majority Leader or his designee, stand re-
cessed or adjourned until 2 p.m. on Tuesday, September 6, 2005, or until
the time of any reassembly pursuant to sec-
tion 2 of this concurrent resolution, which-
ever occurs first.

Sect. 2. The Majority Leader of the Senate and the Speaker of the House, or their re-
spective designees, acting jointly after con-
sultation with the Minority Leader of the Senate and the Minority Leader of
the House, shall notify the Members of the Sena-
ate and House, respectively, to reassemble at
such place and time as they may designate whenever, in their opinion, the public inter-
est shall warrant it.

REPORTS OF COMMITTEES
Under the authority of the order of the order
of the Senate of July 29, 2005, the fol-
lowing reports of committees were sub-
mitted on August 31, 2005:

By Mr. MCCONNELL, from the Committee on
Indian Affairs, without amendment:
S. 1295. A bill to amend the Indian Gaming
Regulatory Act to provide for accountability and
funding of the National Indian Gaming Com-
By Mr. INHOFE, from the Committee on Environ-
ment and Public Works, with amend-
ments:
S. 1250. A bill to reauthorize the Great Ape
By Mr. INHOFE, from the Committee on Environ-
ment and Public Works, without amend-
ment:
S. 1339. A bill to reauthorize the Junior
Duck Stamp Conservation and Design Pro-
gram for the fiscal year 2004 (Rept. No. 109-124).
S. 1340. A bill to amend the Pittman-Rob-
erson Wildlife Restoration Act to extend the
date after which surplus funds in the
wildlife restoration fund become available for
apportionment (Rept. No. 109-125).
By Mr. INHOFE, from the Committee on Environ-
ment and Public Works, with amend-
ments:
S. 1415. A bill to amend the Lacey Act
Amendments of 1981 to protect captive wild-
life and make technical corrections (Rept.
No. 109-126).
By Mr. INHOFE, from the Committee on Environ-
ment and Public Works, without amend-
ment:
H.R. 1428. A bill to authorize appropri-
ations for the National Fish and Wildlife
Foundation, and for other purposes (Rept.
No. 109-127).
By Mr. GRASSLEY, from the Committee on
Finance:
Report to accompany S. 1307, a bill to im-
plement the Dominican Republic-Central
America-United States Free Trade Agree-
ment (Rept. No. 109-128).
By Mr. ENZI, from the Committee on Health,
Education, Labor, and Pensions:
Report to accompany S. 1317, a bill to pro-
vide for the collection and maintenance of
cord blood units for the treatment of pa-
patients and research, and to amend the Public
Health Service Act to authorize the Bone
Marrow and Cord Blood Cell Transplantation
Program to increase the number of trans-
plants for recipients suitable matched to do-
 nors of bone marrow and cord blood (Rept.
No. 109-129).
By Mr. ENZI, from the Committee on Health,
Education, Labor, and Pensions:
S. 525. A bill to amend the Child Care and
Development Block Grant Act of 1990 to re-
authorize the Act, to improve early learning
opportunities and promote school prepared-
ness, and for other purposes (Rept. No. 109-
130).
S. 1107. A bill to reauthorize the Head
Start Act, and for other purposes (Rept. No.
109-131).

USA PATRIOT AND TERRORISM
PREVENTION REAUTHORIZATION ACT OF 2005
On Friday, July 29, 2005, the Senate passed H.R. 3199, as amended, as fol-
lows:
S. 3388
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled, 
[SEC. 3. PATRIOT SECTION 206; ADDITIONAL RE-
QUIREMENTS FOR MULTIPONT ELECTRONIC
SURVEILLANCE UNDER FISA]
(a) Particularity Requirement. — Sec-
tion 105(c)(1)(A) of the Foreign Intelligence
Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting before the

conclusion of the following: “, and if the

nature and location of each of the facilities

or places at which the surveillance will be
directed is not known, and if the location or

target of the surveillance is unknown, the

order shall include sufficient information to
describe a specific target with particularity.”

(b) Additional Directions.—Section 1805(c) of the Foreign Intelligence
Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amend-
ed—
(1) by striking “an order approving an elec-
tronicsurveillance under this section shall”;
(2) in paragraph (1), by inserting before
“specify” the following: “specifications.—
An order approving an electronic surveil-
lance under this section shall”;
(3) in paragraph (1)(F), by striking “; and” and
inserting a period;
(4) in paragraph (2), by inserting before
“the following: — An order approving an elec-
tronicsurveillance under this section shall”;
and
(5) by adding at the end the following:
(3) Special Direction on Orders.—An
order approving an electronic surveil-
ance under this section in circumstances
where the nature and location of each of the
facilities or places at which the surveillance
shall be directed is unknown shall direct the
applicant to provide notice to the court within
days after the date on which surveil-
ance begins to be directed at any new
facility or place of—
(A) the nature and location of each facil-
ity or place at which the electronic surveil-
ance is directed is being used, or is about to be,
used, by an entity or place at which the elec-
tronic surveillance is directed is unknown shall
direct the applicant to provide notice to the court
within 10 days after the date on which surveil-
ance begins to be directed at any new
facility or place of—
(B) the facts and circumstances relied
upon by the applicant to justify the appli-
cant’s belief that each facility or place at
which the electronic surveillance is directed
is being used, or is about to be, used, by an
entity or place at which the electronic surveil-
ance is directed is unknown shall direct the
applicant to provide notice to the court
within 10 days after the date on which surveil-
ance begins to be directed at any new
facility or place of—
(C) a statement of any proposed mini-
malization procedures that differ from those
contained in the original application or
order, that may be necessitated by a change
in the facility or place at which the elec-
tronic surveillance is directed is unknown shall
direct the applicant to provide notice to the

court within 10 days after the date on which sur-
veillance begins to be directed at any new
facility or place of—

(4) Enhanced Oversight.—
(1) REPORT TO CONGRESS. —Section 108(a)(1)
of the Foreign Intelligence Surveillance Act
of 1978 (50 U.S.C. 1808(a)(1)) is amended by in-
serting “and the Committee on the Judici-
ary of the Senate,” after “Senate Select Committee on
Intelligence,” as the
(2) Modification of Semiannual Report
Requirement on Activities Under Foreign
Intelligence Surveillance Act of 1978.—
Paragraph (2) of section 108(a)(1) of the Foreign
Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:
(1) Each report under the first sentence
of paragraph (1) shall include a description of
(A) the total number of applications
made for orders and extensions of orders
approving electronic surveillance under this
section where the nature and location of each
facility or place at which the electronic sur-
veillance will be directed is not known; and
(B) each criminal case in which informa-
tion acquired under this Act has been
authori-
zed for use at trial during the period covered
by such report.”.

“[C] (1) SHORT TITLE; TABLE OF CONTENTS.
(a) Short Title.—This Act may be cited as the “USA PATRIOT Improvement and Re-
authorization Act of 2005”.
(b) Table of Contents.—The table of con-
tents of this Act is as follows:
[SEC. 1. SHORT TITLE; TABLE OF CONTENTS].
[SEC. 2. PATRIOT SECTION 206; ADDITIONAL RE-
QUIREMENTS FOR MULTIPONT ELECTRONIC
SURVEILLANCE UNDER FISA]
(Sec. 3) PATRIOT SECTION 206; ADDITIONAL RE-
QUIREMENTS FOR MULTIPONT ELECTRONIC
SURVEILLANCE UNDER FISA
On Friday, July 29, 2005, the Senate passed H.R. 3199, as amended, as fol-
lows:
S. 3388
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled, 

Table of Contents
Sec. 1. Short title; table of contents.
Sec. 2. Patriot section 206; additional require-
ments for multipoint electronic surveillance
under FISA.
Sec. 3. Patriot section 206; additional require-
ments for multipoint electronic surveil-
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Sec. 4. Patriot section 207; duration of
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sight of good-faith emergency
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Sec. 6. Patriot section 213; limitations on
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Sec. 8. Patriot section 215; procedural pro-
tections for court orders to
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tions.
Sec. 9. Patriot section 505; procedural pro-
tections for national security
intelligence investigations.
Sec. 10. Sunset provisions.
Sec. 11. Enhancement of sunshine provi-
dence.
SEC. 4. PATRIOT SECTION 207; DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS.

(a) ELECTRONIC SURVEILLANCE ORDERS.—Section 105(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2)(B), by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(b) PHYSICAL SEARCH ORDERS.—Section 304(d) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

(1) in paragraph (1)(B), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(d) REPORTING OF EMERGENCY DISCLOSURES.—Section 305(a)(1) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1823(a)(1)) is amended by inserting “the date certain that is” before “within a reasonable period of its execution”.

(3) after “... good cause shown” inserting “... subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the fact of the case and the period of delay are reported to the Senate a report containing...

(4) in the order... as defined in section 101(b)(1)(A)” inserting “... who is not a United States person”.

(f) ENSURED OVERSIGHT.—Section 305(a)(1) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1823(a)(1)) is amended by—

(1) inserting “... that each additional delay should be limited to periods of 90 days or less, unless the facts of the case and the period of delay are reported to the Senate a report containing...

(2) adding at the end the following:

"(c) ENHANCED OVERSIGHT.—Section 305(a)(1) of title 18, United States Code, is amended by striking “... who is not a United States person” and inserting “... who is not a United States person”.

SEC. 5. PATRIOT SECTION 212; ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES.

(a) ENHANCED OVERSIGHT.—Section 2702 of title 18, United States Code, is amended by adding at the end the following:

"(e) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

(1) in subsection (a)(1)...

(2) by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(3) in paragraph (1)(B), by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.—

(1) in subsection (b)(8), by inserting “... who is not a United States person” after “... who is...”;

(2) in paragraph (2), by inserting “... who is not a United States person” after “... who is...”;

(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

(1) in paragraph (1)(B), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(d) REPORTING OF EMERGENCY DISCLOSURES.—Section 305(a)(1) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1823(a)(1)) is amended by—

(1) in paragraph (1)(B), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”.

(e) ENSURED OVERSIGHT.—Section 305(a)(1) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1823(a)(1)) is amended by—

(1) adding at the end the following:

"(f) ENHANCED OVERSIGHT.—Section 305(a)(1) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1823(a)(1)) is amended by—

(1) in paragraph (1)(B), by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), by inserting “... who is not a United States person” after “... who is...”;

SEC. 6. PATRIOT SECTION 213; LIMITATIONS ON DELAYED NOTICE SEARCH WARRANTS.

(a) GROUNDS FOR DELAY.—Section 3103a(b)(1) of title 18, United States Code, is amended by striking “... as defined in section 2703(b)” and inserting “may—" and

"(b) DISCLOSURES.—Section 3103a(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1824(d)(1)) is amended by striking “... who is not a United States person” and inserting “... who is not a United States person”.

(b) RECORDS.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A), by striking “... who is not a United States person” and inserting “... who is not a United States person”;

(2) in paragraph (2), by striking “... who is not a United States person” and inserting “... who is not a United States person”;

(3) in paragraph (3), by striking “... who is not a United States person” and inserting “... who is not a United States person”.

(c) PEN REGISTERS.—Section 402(e) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1842(e)) is amended by—

(1) in paragraph (1)(B), by striking “... as defined in section 101(b)(1)(A)” and inserting “who is not a United States person”;

(2) in paragraph (2), by inserting “... who is not a United States person” after “... who is...”; and

SEC. 7. PATRIOT SECTION 214; FACTUAL BASIS FOR PEN REGISTER AND Trap AND Trace AUTHORITY UNDER FISA.

(a) FACTUAL BASIS FOR PEN REGISTERS AND Trap AND Trace DEVICES UNDER FISA.—

(1) APPLICATION.—Section 402(e)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(e)(2)) is amended by striking “... a certification by the applicant that...” and inserting “... a statement of the facts relied upon by the applicant to justify the applicant’s belief that...”;

(2) ORDER.—Section 402(d)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(1)) is amended by striking “... if the judge finds that...” and all that follows and inserting “... if the judge finds that the applicant’s belief that the information...”.

(b) DISCLOSURES.—Section 402(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A), by striking “... who is not a United States person” and inserting “... who is not a United States person”;

(2) in paragraph (2), by striking “... who is not a United States person” and inserting “... who is not a United States person”;

(3) in paragraph (3), by striking “... who is not a United States person” and inserting “... who is not a United States person”.

(c) ENSURED OVERSIGHT.—Section 406 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846) is amended by—

(1) in subsection (a), by inserting “... and the Committee on the Judiciary of the House of Representatives;...” after “... the Senate;...”;

(2) in subsection (b), by striking “... and the Committee on the Judiciary of the Senate;...” and inserting “... and the Committee on the Judiciary of the House of Representatives;...”; and
in subsection (b), by striking “On a semiannual basis” through “the preceding 6-month period” and inserting “In April of each year, the Attorney General shall transmit to the Director of the Federal Bureau of Investigation, the United States Courts and to Congress a report setting forth with respect to the preceding calendar year…”

SEC. 8. PATRIOT SECTION 501; PROCEDURAL PROTECTIONS FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGATIONS.

(a) FACTUAL BASIS FOR REQUESTED ORDER.—

(1) APPLICATION.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended by striking “shall specify that the records concerned are sought for the purpose of establishing a statement of facts showing that there are reasonable grounds to believe that the records or other things sought are relevant to—”

(2) ORDER.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking “if the judge finds that the statement of facts contained in the application establishes reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not conceptually related to the protection against international terrorism or clandestine intelligence activities, and the application meets the other requirements of this section…”.

(b) ADDITIONAL PROTECTIONS.—Section 501(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2), by inserting “An order under this subsection shall be filed under seal, and the court, upon receipt of the application, shall have jurisdiction to review such decision.”;

(2) in paragraph (4), by striking “The Director may delegate authority to approve such an application to the Deputy Director of the Federal Bureau of Investigation, but such authority may not be further delegated.”;

(d) PROHIBITION ON DISCLOSURE.—Section 501(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(d)) is amended to read as follows:

(1) No person shall disclose to any other person that the Federal Bureau of Investigation has obtained tangible things pursuant to an order under this section other than to—

(A) those persons to whom such disclosure is necessary to comply with such order;

(B) an attorney to obtain legal advice or assistance with respect to the production of items in connection with an investigation conducted in accordance with an authorized investigation conducted in accordance with an authorized investigation, or assisted, by the United States Attorney for the District of Columbia, the District of Columbia Superior Court, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, or the Foreign Intelligence Surveillance Court of Review established under section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862), or the Foreign Intelligence Surveillance Court of Review established under section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) to which an order is required if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation involving diplomatic relations, or endanger the life or physical safety of any person.

(2) by adding at the end the following:

(3) the total number of applications made for orders approving requests for the production of tangible things under section 501(a), the total number of such orders granted, modified, or denied, when the application or order involved any of the following:—

(A) The production of tangible things primarily engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication whether in print or digitally.

(B) The production of tangible things that are not concerning a United States person or to obtain foreign intelligence information relevant to an authorized investigation conducted in accordance with an authorized investigation conducted in accordance with an authorized investigation, or assisted, by the United States Attorney for the District of Columbia, the District of Columbia Superior Court, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, or the Foreign Intelligence Surveillance Court of Review established under section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862), or the Foreign Intelligence Surveillance Court of Review established under section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) to which an order is required if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation involving diplomatic relations, or endanger the life or physical safety of any person.

SEC. 9. PATRIOT SECTION 505; PROCEDURAL PROTECTIONS FOR NATIONAL SECURITY LETTERS.

(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended—

(1) by striking “A wire or electronic communication service provider” and inserting the following:

(1) by striking “A wire or electronic communication service provider” and inserting—

(2) by adding at the end the following:

(2) by adding at the end the following:

(3) the total number of such orders either granted, modified, or denied.”;

(b) ADDITIONAL PROTECTIONS.—Section 2709(c) of title 18, United States Code, is amended—

(1) by striking “No wire or electronic communication service provider” and inserting the following:

(1) by striking “No wire or electronic communication service provider” and inserting—

(2) by adding at the end the following:

(2) by adding at the end the following:

(3) the total number of such orders either granted, modified, or denied.”;

(c) ENSURE COMPLIANCE.—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—

(1) in subsection (a), by inserting “; and” at the end;

(2) in subsection (b)—

(A) by striking “On a semiannual basis” through “the preceding 6-month period” and inserting “In April of each year, the Attorney General shall transmit to the Director of the Federal Bureau of Investigation, the United States Courts and to Congress a report setting forth with respect to the preceding calendar year.”;

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

(C) in paragraph (2), by striking the period at the end and inserting “;”;

(D) by adding at the end the following:

(1) the total number of applications made for orders approving requests for the production of tangible things under section 501(a), the total number of such orders granted, modified, or denied, when the application or order involved any of the following:—

(A) The production of tangible things primarily engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication whether in print or digitally.

(B) The production of tangible things that are not concerning a United States person or to obtain foreign intelligence information relevant to an authorized investigation conducted in accordance with an authorized investigation conducted in accordance with an authorized investigation, or assisted, by the United States Attorney for the District of Columbia, the District of Columbia Superior Court, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, or the Foreign Intelligence Surveillance Court of Review established under section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862), or the Foreign Intelligence Surveillance Court of Review established under section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) to which an order is required if there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation involving diplomatic relations, or endanger the life or physical safety of any person.

The court may modify or set aside such a nondisclosure requirement with particularity.

(2) STANDARD OF REVIEW.—The court may modify or set aside such a nondisclosure requirement with particularity.”
nondisclosure requirement, the certification by the Government that the disclosure may endanger the national security of the United States or interfere with diplomatic relations shall be conclusive unless the court finds that the certification was made in bad faith.”.

(c) ENFORCEMENT OF NATIONAL SECURITY LETTERS—Section 2708(d) of title 18, United States Code, as amended by subsection (b), is amended by adding at the end the following:

(3) ENFORCEMENT OF REQUESTS.—The Attorney General may seek enforcement of a request under subsection (b) in an appropriate United States district court if a respondent refuses to comply with the request.”.

(d) INFORMATION.—

(1) SECURE PROCEEDINGS.—Section 2709 of title 18, United States Code, as amended by subsections (b) and (c), is amended—

(A) in subsection (a), by adding at the end the following:

(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.).”;

(B) in subsection (c), by adding at the end the following:

(4) SECURE PROCEEDINGS.—The disclosure of information in any proceedings under this subsection may be limited consistent with the requirements of the Classified Information Procedures Act (18 U.S.C. App.).”.

(2) DISCLOSURE TO NECESSARY PERSONS.—Section 2709(c)(1) of title 18, United States Code, as amended by subsection (b), is amended—

(A) by inserting after “any person” the following: “, except for disclosure to an attorney or, at the request of the request or to persons to whom disclosure is necessary in order to comply with the request,”;

(B) by adding at the end the following: “Any attorney or person whose assistance is necessary to comply with the request who is notified of the request also shall not disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.”.

SEC. 10. SUNSET PROVISIONS.

(a) PATRIOT SECTION 206; ADDITIONAL REQUIREMENTS FOR MULTIPROTOCOL ELECTRONIC SURVEILLANCE UNDER FISA.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall cease to have effect on December 31, 2009.

(2) SPECIAL RULE.—With respect to any particular foreign intelligence investigation that began before the date on which the amendment made by subsection (a) ceases to have effect, section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as amended by subsection (a), shall continue in effect.”.

(c) REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT ACT.—

(1) IN GENERAL.—Section 663 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3762) is amended by striking subsection (g).

(50 U.S.C. 1814(b)), as amended by section 7, is amended—

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

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

and (C) by adding at the end the following:

(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 305, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”.

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

(1) Short title; table of contents.

Sec. 1. Short title; table of contents.

Sec. 2. Patriot section 206; additional requirements for multipoint electronic surveillance under FISA.

Sec. 3. Patriot section 207; duration of FISA surveillance of non-United States persons.

Sec. 4. Patriot section 212; enhanced oversight of good-faith emergency disclosures.

Sec. 5. Patriot section 213; limitations on delayed notice search warrants.

Sec. 6. Patriot section 214; authority for disclosure of additional information in connection with orders for pen register and trap and trace authority under FISA.

Sec. 7. Patriot section 219; procedural protections for court orders to produce records and other items in intelligence investigations.

Sec. 8. Patriot section 255; procedural protections for national security letters.

Sec. 9. Sunset provisions.

Sec. 10. Enhancement of sunshine provisions.

(b) APPLICABILITY REQUIREMENT.—Section 105(c)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amended by inserting before the semicolon at the end the following: “; and if the nature and location of each of the facilities or places at which the surveillance is not known, and if the identity of the target is not known, the order shall include sufficient information to describe a specific target with particularity.”.

SEC. 11. ENHANCEMENT OF SUNSHINE PROVISIONS.

SEC. 2. PATRIOT SECTION 206; ADDITIONAL REQUIREMENTS FOR MULTIPROTOCOL ELECTRONIC SURVEILLANCE UNDER FISA.

(1) by striking “An order approving an electronic surveillance under this section shall”;

(2) in paragraph (1), by inserting before “and the following: Specifications” an order approving an electronic surveillance under this section shall”;

(3) in paragraph (1)(F), by striking “; and” and inserting a period;

(4) in paragraph (2), by inserting before “direct” the following: “Directions: An order approving an electronic surveillance under this section shall”; and

(5) by adding at the end the following:

(3) Special directions for certain orders approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within 10 days after the date on which surveillance begins to be directed at any new facility or place of—

(a) Emergency Pen Registers and Trap and Trace Devices.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1880(b)), as amended by section 7, is amended—

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

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

and (3) by adding at the end the following:

(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 305, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”.

(2) major directions for orders approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within 10 days after the date on which surveillance begins to be directed at any new facility or place of—

(1) Emergency Pen Registers and Trap and Trace Devices.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1880(b)), as amended by section 7, is amended—

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

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

and (3) by adding at the end the following:

(3) the total number of pen registers and trap and trace devices whose installation and use was authorized by the Attorney General on an emergency basis under section 305, and the total number of subsequent orders approving or denying the installation and use of such pen registers and trap and trace devices.”.

SEC. 3. PATRIOT SECTION 207; DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS.

(1) IN GENERAL.—Section 107 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1807) is amended—

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

(2) by adding at the end the following:

(3) in paragraph (1)(F), by striking “; and” and inserting a period;
“(B) the facts and circumstances relied upon by the applicant to justify the applicant’s belief that each facility or place at which the electronic surveillance is directed is being used, or is about to be used, by the target of the surveillance; and

“(C) a statement of any proposed minimization procedures that differ from those contained in the original application or orders, or any change necessitated by a change in the facility or place at which the electronic surveillance is directed.

(c) ENHANCED OVERSIGHT.—

(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) as amended by the Intelligence Authorization Act for Fiscal Year 2007 and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, after “Senate Select Committee on Intelligence” appears the following:

“(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—(Paraph 2) (of the Committee on the Judiciary of the Senate a recommendation.)

(2) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTION.—

(1) VOLUNTARY DISCLOSURES.—Section 2022 of title 18, United States Code, is amended—

(A) in subsection (b)(6), by striking “Federal, State, or local”; and

(B) by striking subsection (c)(4) and inserting the following:

“(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of the information.”;

(b) DISCLOSURES.—Section 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)) is amended by striking “or" after "Paragraph (1)," and inserting "or" after "Paragraph (2),";

(c) PEN REGISTERS.

(1) REPORT TO CONGRESS.—Section 402(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(e)) is amended by—

(1) inserting after "90 days" the first place it appears the following: "", except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an extension of an order issued under this section may be for a period not to exceed 1 year; and

(2) inserting after "90 days" the second place it appears the following: ", except that in cases where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an extension of an order issued under this section may be for a period not to exceed 1 year.

(c) HARASSMENT; OTHER WAYS TO DISTURB.—

(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

(2) a summary of the basis for disclosure in those instances.

(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.

(d) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTION.—

(1) VOLUNTARY DISCLOSURES.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(6), by striking “Federal, State, or local”; and

(B) by striking subsection (c)(4) and inserting the following:

“(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of the information.”;

(2) DEFINITIONS.—Section 2111 of title 18, United States Code, is amended—

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

(B) in paragraph (3), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.”;

(SEC. 5. PATRIOT SECTION 213; LIMITATIONS ON DISCLOSURE OF ADDITIONAL INFORMATION.)

(a) GROUNDS FOR DELAY.—Section 3130(a)(1) of title 18, United States Code, is amended by striking “may have an adverse result (as defined in section 2703(d))” and inserting “may endanger the life or physical safety of an individual.”;

(b) RESULT IN FLIGHT FROM PROSECUTION.—

(1) RESULT IN THE DESTRUCTION OF OR TAMPERING WITH EVIDENCE; or

(c) ENHANCED OVERSIGHT.

(1) REPORT BY JUDGE.—Section 2703(a)(4) of title 18, United States Code, is amended—

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

(B) in paragraph (3), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(4) the warrant provides for the giving of such notice not later than 7 days after the date of its execution, or on a later date certain if the facts at the time of the case justify a longer period of delay.; and

(2) by adding at the end the following:

(c) ENSURING ACCURACY AND COMPLETENESS.—

(1) the name of the customer or subscriber;

(2) the address of the customer or subscriber;

(3) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

(4) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

(5) the date of the initial request for such service, including the number of times such a request for such service was made.

(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service;

(ii) if available, with respect to any customer or subscriber of incoming or outgoing communications to or from the service covered by the order—

(1) the name of such customer or subscriber;

(2) the address of such customer or subscriber;

(3) the telephone or instrument number, or other subscriber number or identifier, of such customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

(4) the length of the provision of service by such provider to such customer or subscriber and the types of services utilized by such customer or subscriber;

(b) ENHANCED OVERSIGHT.—Section 406(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1866(a)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by adding “and” at the end; and

(B) in clause (iii), by striking the period at the end and inserting a semicolon; and

(2) in subparagraph (B)(ii), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(C) shall direct that, upon the request of the applicant, the provider of a wire or electronic communication service shall disclose to the Federal officers using the pen register or trap and trace device covered by the order—

“(1) the case of the customer or subscriber using the service covered by the order (for the period specified by the order and form of the reports required to be filed under paragraph (2));

“(II) the address of the customer or subscriber;

“(III) the telephone or instrument number, or other subscriber number or identifier, of the customer or subscriber, including any temporarily assigned network address or associated routing or transmission information;

“(IV) the length of the provision of service by such provider to the customer or subscriber and the types of services utilized by the customer or subscriber;

“(V) in the case of a provider of local or long distance telephone service, any local or long distance telephone records of the customer or subscriber;

“(VI) if applicable, any records reflecting period of usage (or sessions) by the customer or subscriber; and

“(VII) any mechanisms and sources of payment for such service, including the number of any credit card or bank account utilized for payment for such service;
SEC. 7. PATRIOT SECTION 215; PROCEDURAL PRO-
TECTIONS FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGA-
TIONS.

(a) FACTUAL BASIS FOR REQUESTED ORDER.—
(1) APPLICATION.—Section 501(b)(2) of the For-
eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended to read as follows:

B. The wire or electronic commu-
nication service provider who receives such a request. Any such motion shall state the
reasons for its decision and, on petition of the
United States or any person receiving such
order for a writ of certiorari, the record shall
be submitted in unclassified form, but may include a
classified annex.

(b) ADDITIONAL PROTECTIONS.—Section 501(c)
of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2), by inserting “A wire or electronic
communication service provider who receives a
request under subsection (b) may set aside the
request if compliance would be unreasonable or
oppressive or would violate any constitutional or
other legal right or privilege of the
petitioner.”

(2) by adding at the end the following:

“(4) Not later than 60 days after the date of
the enactment of the USA PATRIOT Improvement and
Reauthorization Act of 2005, the court es-
established under section 103(a) shall develop
and issue procedures for the review of petitions filed
under paragraph (1).”.

(f) ENHANCED OVERSIGHT.—Section 502 of the
Foreign Intelligence Surveillance Act of 1978 (50 U.S.
C. The production of tangible things from
a person or entity primarily engaged in the sale,
rental, or delivery of books, journals, maga-
zines, or other similar forms of communication
under in print or digital form;

“(C) The production of records or other things sought
by a suspected agent of a foreign power who is the sub-
psect of such authorized investigation; or

“(ii) are relevant to the activities of a sus-
pcted agent of a foreign power who is the sub-
psect of such authorized investigation; or

“(iii) to a suspected agent of a foreign power;
and

“(C) The application meets the other require-
ments of this section.

(3) An order under this section shall notify,
in writing, the person to whom the order is di-
rected of the nondisclosure requirements under
this subsection.

(d) In April of each year, the Attorney Gen-
eral shall transmit to the Congress a report setting forth with respect to the preceding cal-
endar year—

(1) the total number of applications made for
orders approving requests for the production of
tangible things under section 103(a); and

(2) the total number of such orders either
granted, modified, or denied.

SEC. 6. PATRIOT SECTION 505; PROCEDURAL PRO-
TECTIONS FOR NATIONAL SECURITY LETTERS.

(a) IN GENERAL.—Section 2709(a) of title 18,
United States Code, is amended—

(1) by striking “A wire or electronic commu-
nication service provider” and inserting the fol-
loving:

“(I) In general.—A wire or electronic
communication service provider;” and

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

“(D) Any petition under this subsection shall be
filed under seal, and the court, upon the re-
quest of the Government, shall review any Gov-
ernment submission, which may include classi-
fied information, concerning the operation of the
Government and related materials, ex parte and in
camera.

S9604

CONGRESSIONAL RECORD — SENATE
September 1, 2005
Mr. FRIST. Mr. President, I ask unanimous consent that the majority leader, the senior Senator from Mississippi, and the senior Senator from New Mexico be authorized to sign duly enrolled bills or joint resolutions during this adjournment of the Senate.

The Acting President pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 51 until 12 noon on Tuesday, September 6, 2005, unless the House has not adopted S. Con. Res. 51, in which case the Senate shall stand adjourned until 4 p.m. on Friday, September 2, 2005.

The Acting President pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I want to take this final opportunity to thank our colleagues for their assistance in getting this emergency funding considered so quickly. We will be returning to business on Tuesday, and we will be monitoring the situation in all of the affected States as we mentioned tonight—really a much larger region in fact, the whole country—over the next several days.

Our hearts, as has been spelled out and articulated so well by my colleagues, and especially our prayers, go out to the people of those States as we pull together and capture the best of what America represents; that is, the support of, in times of crisis, each other as a nation in order to get through these unanticipated, unprecedented challenges for us.