

113TH CONGRESS
1ST SESSION

H. R. 2399

To prevent the mass collection of records of innocent Americans under section 501 of the Foreign Intelligence Surveillance Act of 1978, as amended by section 215 of the USA PATRIOT Act, and to provide for greater accountability and transparency in the implementation of the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2013

Mr. CONYERS (for himself, Mr. AMASH, Mr. NADLER, Mr. MULVANEY, Ms. JACKSON LEE, Mr. BROUN of Georgia, Mr. JOHNSON of Georgia, Mr. DUNCAN of Tennessee, Ms. CHU, Mr. GRIFFITH of Virginia, Ms. DELBENE, Mr. JONES, Mr. ENYART, Mr. MASSIE, Ms. GABBARD, Mr. MCCLINTOCK, Mr. GRIJALVA, Mr. PEARCE, Mr. HOLT, Mr. RADEL, Ms. LEE of California, Mr. SALMON, Mr. McDERMOTT, Mr. SANFORD, Mr. MCGOVERN, Mr. O'ROURKE, Mr. POLIS, Ms. SINEMA, Mr. WELCH, and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent the mass collection of records of innocent Americans under section 501 of the Foreign Intelligence Surveillance Act of 1978, as amended by section 215 of the USA PATRIOT Act, and to provide for greater accountability and transparency in the implementation of the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Limiting Internet and
 5 Blanket Electronic Review of Telecommunications and
 6 Email Act” or “LIBERT-E Act”.

7 **SEC. 2. REFORMS TO ACCESS TO CERTAIN BUSINESS**
 8 **RECORDS FOR FOREIGN INTELLIGENCE AND**
 9 **INTERNATIONAL TERRORISM INVESTIGA-**
 10 **TIONS.**

11 Section 501 of the Foreign Intelligence Surveillance
 12 Act of 1978 (50 U.S.C. 1861) is amended—

13 (1) in subsection (b)(2)(A)—

14 (A) in the matter preceding clause (i)—

15 (i) by inserting “specific and
 16 articulable” before “facts showing”;

17 (ii) by inserting “and material” after
 18 “are relevant”; and

19 (iii) by striking “clandestine intel-
 20 ligence activities” and all that follows and
 21 inserting “clandestine intelligence activities
 22 and pertain only to an individual that is
 23 the subject of such investigation; and”;
 24 and

25 (B) by striking clauses (i) through (iii);

1 (2) in subsection (c)(2)—

2 (A) in subparagraph (D), by striking “;
3 and” and inserting a semicolon;

4 (B) in subparagraph (E), by striking the
5 period and inserting “; and”; and

6 (C) by adding at the end the following new
7 subparagraph:

8 “(F) shall direct the applicant to provide
9 notice to each person required to produce a tan-
10 gible thing under the order of—

11 “(i) the right to challenge the legality
12 of a production order or nondisclosure
13 order (as defined in subsection (f)) by fil-
14 ing a petition in accordance with sub-
15 section (f); and

16 “(ii) the procedures to follow to file
17 such a petition in accordance with such
18 subsection.”; and

19 (3) in subsection (f)(2)—

20 (A) in subparagraph (A)—

21 (i) in clause (i)—

22 (I) in the first sentence, by strik-
23 ing “production order” and inserting
24 “production order or nondisclosure
25 order”; and

- 1 (II) by striking the second sen-
 2 tence; and
 3 (ii) in clause (ii) in the third sentence,
 4 by striking “production order or nondisclo-
 5 sure order” and inserting “order”; and
 6 (B) in subparagraph (C)—
 7 (i) by striking clause (ii); and
 8 (ii) by redesignating clause (iii) as
 9 clause (ii).

10 **SEC. 3. ADDITIONAL DISCLOSURES TO CONGRESS AND THE**
 11 **PUBLIC.**

12 (a) IN GENERAL.—Section 601 of the Foreign Intel-
 13 ligence Surveillance Act of 1978 (50 U.S.C. 1871) is
 14 amended—

15 (1) by redesignating subsection (e) as sub-
 16 section (f); and

17 (2) by inserting after subsection (d) the fol-
 18 lowing new subsection:

19 “(e) ADDITIONAL DISCLOSURES TO CONGRESS AND
 20 THE PUBLIC.—

21 “(1) ALL MEMBERS OF CONGRESS.—Not later
 22 than 45 days after the date on which the Attorney
 23 General submits a report, decision, order, opinion,
 24 pleading, application, or memoranda of law under
 25 subsection (a) or (c), the Attorney General shall

1 make such report, decision, order, opinion, pleading,
2 application, or memoranda of law available to all
3 Members of Congress (including the Delegates and
4 Resident Commissioner to the Congress) in a man-
5 ner consistent with the protection of national secu-
6 rity.

7 “(2) UNCLASSIFIED SUMMARIES OF DECISIONS,
8 ORDERS, OR OPINIONS.—Not later than 180 days
9 after the date on which the Attorney General sub-
10 mits a decision, order, or opinion under subsection
11 (c), the Attorney General shall make publicly avail-
12 able an unclassified summary of such decision,
13 order, or opinion.”.

14 (b) SUBMISSIONS MADE PRIOR TO DATE OF ENACT-
15 MENT.—

16 (1) ALL MEMBERS OF CONGRESS.—Not later
17 than 45 days after the date of the enactment of this
18 Act, the Attorney General shall make each report,
19 decision, order, opinion, pleading, application, or
20 memoranda of law submitted under subsection (a) or
21 (c) of section 601 of the Foreign Intelligence Sur-
22 veillance Act of 1978 (50 U.S.C. 1871) prior to the
23 date of the enactment of this Act available to all
24 Members of Congress (including the Delegates and
25 Resident Commissioner to the Congress) in a man-

1 ner consistent with the protection of national secu-
2 rity.

3 (2) UNCLASSIFIED SUMMARIES OF DECISIONS,
4 ORDERS, OR OPINIONS.—Not later than 180 days
5 after the date of the enactment of this Act, the At-
6 torney General shall make publicly available an un-
7 classified summary of each decision, order, or opin-
8 ion submitted under section 601(c) of the Foreign
9 Intelligence Surveillance Act of 1978 (50 U.S.C.
10 1871(c)) prior to the date of the enactment of this
11 Act.

12 **SEC. 4. REPORT ON IMPACT OF PROVISIONS RELATING TO**
13 **ACCESS TO CERTAIN BUSINESS RECORDS**
14 **AND TARGETING NON-UNITED STATES PER-**
15 **SONS OUTSIDE OF THE UNITED STATES ON**
16 **PRIVACY OF PERSONS LOCATED IN THE**
17 **UNITED STATES.**

18 (a) REPORT.—Not later than one year after the date
19 of enactment of this Act, the Inspector General of the De-
20 partment of Justice and the inspector general of each ele-
21 ment of the intelligence community authorized to acquire
22 information pursuant to an order under section 501 of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1861) or an order or determination under section 702 of
25 such Act (50 U.S.C. 1881a) on or after October 26, 2001,

1 shall jointly submit to Congress a report on the impact
2 of acquisitions made under such section 501 or such sec-
3 tion 702 on or after October 26, 2001, on the privacy in-
4 terests of United States persons.

5 (b) CONTENTS.—The report required by subsection
6 (a) shall include the following

7 (1) An assessment of the impact that imple-
8 mentation of section 501 (as in effect on or after
9 October 26, 2001) and section 702 of the Foreign
10 Intelligence Surveillance Act of 1978 (50 U.S.C.
11 1861, 1881a) has had on the privacy of persons in-
12 side the United States.

13 (2) An assessment of the extent to which acqui-
14 sitions made under such section 501 and such sec-
15 tion 702 have resulted in the acquisition or review
16 of the contents of communications of persons located
17 inside the United States, including—

18 (A) the number of persons located inside
19 the United States who have had the contents of
20 their communications acquired under such sec-
21 tion 501 or such section 702, and the number
22 of persons located inside the United States who
23 have had the contents of their communications
24 reviewed under such section 501 or such section
25 702; or

1 (B) if it is not possible to determine such
2 numbers, the estimate of the inspectors general
3 of such numbers made using representative
4 sampling or other analytical techniques.

5 (3) A review of the inspectors general of inci-
6 dents of non-compliance with such section 501 or
7 such section 702, with a particular focus on any
8 types of non-compliance incidents that have re-
9 curred, and the impact of such non-compliance on
10 the privacy of persons inside the United States.

11 (c) DISCLOSURE TO THE PUBLIC.—Not later than
12 180 days after the date on which the report required by
13 subsection (a) is submitted, the Inspector General of the
14 Department of Justice shall make such report available
15 to the public, with any redactions limited to those that
16 are necessary to protect properly classified information.

17 (d) INTELLIGENCE COMMUNITY DEFINED.—In this
18 section, the term “intelligence community” has the mean-
19 ing given the term in section 3(4) of the National Security
20 Act of 1947 (50 U.S.C. 3003(4)).

1 **SEC. 5. FORM OF ASSESSMENTS OF PROCEDURES TAR-**
2 **GETING CERTAIN PERSONS LOCATED OUT-**
3 **SIDE THE UNITED STATES.**

4 Section 702(l) of the Foreign Intelligence Surveil-
5 lance Act of 1978 (50 U.S.C. 1881a) is amended by add-
6 ing at the end the following new paragraph:

7 “(4) FORM OF ASSESSMENTS AND REVIEWS.—
8 Each assessment or review required under para-
9 graph (1), (2), or (3) shall be submitted or provided
10 in unclassified form, but may include a classified
11 annex.”.

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