

113TH CONGRESS
1ST SESSION

H. R. 3756

To provide for the public disclosure of information regarding surveillance activities under the Foreign Intelligence Surveillance Act of 1978.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Mr. PERRY 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 provide for the public disclosure of information regarding surveillance activities under 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. PUBLIC DISCLOSURE OF INFORMATION RE-**
4 **GARDING SURVEILLANCE ACTIVITIES UNDER**
5 **THE FOREIGN INTELLIGENCE SURVEIL-**
6 **LANCE ACT OF 1978.**

7 (a) DEFINITIONS.—In this section:

1 (1) FISA COURT.—The term “FISA Court”
2 means a court established under section 103 of the
3 Foreign Intelligence Surveillance Act of 1978 (50
4 U.S.C. 1803).

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

9 (b) REQUIREMENT TO DISCLOSE.—

10 (1) IN GENERAL.—If a FISA Court issues a de-
11 cision that determines that surveillance activities
12 conducted by the Government of the United States
13 have violated the laws or Constitution of the United
14 States, the Attorney General shall publicly disclose
15 the decision in a manner consistent with the protec-
16 tion of the national security of the United States.

17 (2) DISCLOSURE DESCRIBED.—For each disclo-
18 sure required by paragraph (1), the Attorney Gen-
19 eral shall make available to the public documents
20 sufficient to identify with particularity the statutory
21 or constitutional provision that was determined to
22 have been violated.

23 (3) DOCUMENTS DESCRIBED.—The Attorney
24 General shall satisfy the disclosure requirements in
25 paragraph (2) by—

1 (A) releasing a FISA Court decision in its
2 entirety or as redacted; or

3 (B) releasing a summary of a FISA Court
4 decision.

5 (4) EXTENSIVE DISCLOSURE.—The Attorney
6 General shall release as much information regarding
7 the facts and analysis contained in a decision de-
8 scribed in paragraph (1) or documents described in
9 paragraph (3) as is consistent with legitimate na-
10 tional security concerns.

11 (5) TIMING OF DISCLOSURE.—A decision that
12 is required to be disclosed under paragraph (1) shall
13 be disclosed not later than 60 days after the decision
14 is issued.

15 (c) DIRECTOR OF NATIONAL INTELLIGENCE DISCLO-
16 SURES TO CONGRESS AND THE PUBLIC.—

17 (1) REQUIREMENT FOR DISCLOSURES TO CON-
18 GRESS.—Not later than 90 days after the date of
19 the enactment of this Act, the Director of National
20 Intelligence shall provide to Congress, in writing, the
21 following information:

22 (A) Whether the National Security Agency
23 or any other element of the intelligence commu-
24 nity has ever collected the cell-site location in-
25 formation of a large number of United States

1 persons with no known connection to suspicious
2 activity, or made plans to collect such informa-
3 tion.

4 (B) A description of the type and amount
5 of evidence the Director of National Intelligence
6 believes is required to permit the collection of
7 cell-site location information of United States
8 persons for intelligence purposes.

9 (C) Whether the National Security Agency
10 or any other element of the intelligence commu-
11 nity has ever conducted a warrantless search of
12 a collection of communications collected under
13 section 702 of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1881a) in an ef-
15 fort to find the communications of a particular
16 United States person (other than a corpora-
17 tion).

18 (D) If the National Security Agency or any
19 other element of the intelligence community has
20 conducted a search described in subparagraph
21 (C), the number of such searches that have
22 been conducted or an estimate of such number
23 if it is not possible to provide a precise count.

24 (E) A specific description of when the
25 United States Government first began relying

1 on authorities under the Foreign Intelligence
2 Surveillance Act of 1978 (50 U.S.C. 1801 et
3 seq.) to justify the collection of records per-
4 taining to large numbers of United States per-
5 sons with no known connection to suspicious ac-
6 tivity.

7 (F) Whether representations made to the
8 Supreme Court of the United States by the De-
9 partment of Justice in the case of Clapper v.
10 Amnesty International USA accurately de-
11 scribed the use of authorities under the Foreign
12 Intelligence Surveillance Act of 1978 by the
13 United States Government, and if any represen-
14 tations were inaccurate, which representations
15 were inaccurate and how such representations
16 have been corrected.

17 (G) A listing of FISA Court opinions that
18 identified violations of the law, the Constitution,
19 or FISA Court orders with regard to collection
20 carried out pursuant to section 402, 501, or
21 702 of the Foreign Intelligence Surveillance Act
22 of 1978 (50 U.S.C. 1842, 1861, and 1881a)
23 and a description of the violations identified by
24 a FISA Court.

25 (2) FORM OF DISCLOSURES.—

1 (A) DISCLOSURES TO THE PUBLIC.—The
2 written submission required by paragraph (1)
3 shall be made available to the public not later
4 than 15 days after the date it is submitted to
5 Congress.

6 (B) REDACTIONS.—If the Director of Na-
7 tional Intelligence believes that public disclosure
8 of information in the written submission re-
9 quired by paragraph (1) could cause significant
10 harm to national security, the Director may re-
11 dact such information from the version made
12 available to the public.

13 (C) SUBMISSION TO CONGRESS.—If the
14 Director redacts information under subpara-
15 graph (B), not later than 30 days after the date
16 the written submission required by paragraph
17 (1) is made available to the public under sub-
18 paragraph (A), the Director shall submit to the
19 Select Committee on Intelligence of the Senate
20 and the Permanent Select Committee on Intel-
21 ligence of the House of Representatives a state-
22 ment explaining the specific harm to national
23 security that the disclosure of such information
24 could cause.

1 (d) ASSESSMENT OF ECONOMIC IMPACT OF SURVEIL-
2 LANCE ACTIVITIES.—

3 (1) REQUIREMENT FOR ASSESSMENT.—The
4 Comptroller General of the United States, in con-
5 sultation with the United States International Trade
6 Commission, shall conduct an assessment of the eco-
7 nomic impact of bulk collection programs conducted
8 under title IV and title V of the Foreign Intelligence
9 Surveillance Act of 1978 (50 U.S.C. 1841 et seq.),
10 as modified by the USA PATRIOT Act (Public Law
11 107–56; 115 Stat. 272), and of surveillance pro-
12 grams conducted under section 702 of the Foreign
13 Intelligence Surveillance Act of 1978 (50 U.S.C.
14 1881a), in light of the fact that such programs are
15 now public.

16 (2) EVALUATION.—The assessment required by
17 paragraph (1) shall include an evaluation of the im-
18 pact of these disclosures on United States commu-
19 nication service providers’ ability to compete in for-
20 eign markets.

21 (3) SUBMISSION TO CONGRESS.—Not later than
22 270 days after the date of the enactment of this Act,
23 the Comptroller General shall submit to Congress

- 1 the findings of the assessment required by para-
- 2 graph (1).

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