

**Calendar No. 499**

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2685**

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.

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**IN THE SENATE OF THE UNITED STATES**

JULY 29, 2014

Mr. LEAHY (for himself, Mr. LEE, Mr. DURBIN, Mr. HELLER, Mr. FRANKEN, Mr. CRUZ, Mr. BLUMENTHAL, Mr. UDALL of New Mexico, Mr. COONS, Mr. HEINRICH, Mr. MARKEY, Ms. HIRONO, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. SCHUMER, and Mr. SANDERS) introduced the following bill; which was read the first time

JULY 30, 2014

Read the second time and placed on the calendar

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**A BILL**

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

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

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
 5       “Uniting and Strengthening America by Fulfilling Rights  
 6       and Ensuring Effective Discipline Over Monitoring Act of  
 7       2014” or the “USA FREEDOM Act of 2014”.

8       (b) **TABLE OF CONTENTS.**—The table of contents for  
 9       this Act is as follows:

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

TITLE I—FISA BUSINESS RECORDS REFORMS

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

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

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

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

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

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT  
REFORMS

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

TITLE V—NATIONAL SECURITY LETTER REFORM

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

TITLE VI—FISA TRANSPARENCY AND REPORTING  
REQUIREMENTS

- Sec. 601. Additional reporting on orders requiring production of business records; business records compliance reports to Congress.
- Sec. 602. Annual reports by the Government.
- Sec. 603. Public reporting by persons subject to FISA orders.
- Sec. 604. Reporting requirements for decisions, orders, and opinions of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review.
- Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

- Sec. 701. Sunsets.

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

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

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

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

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

**15** (1) in subparagraph (A)—

**16** (A) in the matter preceding clause (i), by  
**17** striking “a statement” and inserting “in the  
**18** case of an application other than an application  
**19** described in subparagraph (C) (including an ap-

1           plication for the production of call detail  
2           records other than in the manner described in  
3           subparagraph (C)), a statement”; and

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

6           (2) by redesignating subparagraphs (A) and  
7           (B) as subparagraphs (B) and (D), respectively; and

8           (3) by inserting after subparagraph (B) (as so  
9           redesignated) the following new subparagraph:

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

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

23                           “(ii) there is a reasonable, articulable  
24           suspicion that such specific selection term  
25           is associated with a foreign power engaged

1 in international terrorism or activities in  
2 preparation therefor, or an agent of a for-  
3 eign power engaged in international ter-  
4 rorism or activities in preparation therefor;  
5 and”.

6 (b) ORDER.—Section 501(c)(2) (50 U.S.C.  
7 1861(c)(2)) is amended—

8 (1) in subparagraph (D), by striking “; and”  
9 and inserting a semicolon;

10 (2) in subparagraph (E), by striking the period  
11 and inserting “; and”; and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(F) in the case of an application de-  
15 scribed in subsection (b)(2)(C), shall—

16 “(i) authorize the production on a  
17 daily basis of call detail records for a pe-  
18 riod not to exceed 180 days;

19 “(ii) provide that an order for such  
20 production may be extended upon applica-  
21 tion under subsection (b) and the judicial  
22 finding under paragraph (1) of this sub-  
23 section;

1 “(iii) provide that the Government  
2 may require the prompt production of call  
3 detail records—

4 “(I) using the specific selection  
5 term that satisfies the standard re-  
6 quired under subsection (b)(2)(C)(ii)  
7 as the basis for production; and

8 “(II) using call detail records  
9 with a direct connection to such spe-  
10 cific selection term as the basis for  
11 production of a second set of call de-  
12 tail records;

13 “(iv) provide that, when produced,  
14 such records be in a form that will be use-  
15 ful to the Government;

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

1                   viding to each subject of the production;  
2                   and

3                   “(vi) direct the Government to—

4                               “(I) adopt minimization proce-  
5                               dures that require the prompt de-  
6                               struction of all call detail records pro-  
7                               duced under the order that the Gov-  
8                               ernment determines are not foreign  
9                               intelligence information; and

10                              “(II) destroy all call detail  
11                              records produced under the order as  
12                              prescribed by such procedures.”.

13 **SEC. 102. EMERGENCY AUTHORITY.**

14       (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is  
15 amended by adding at the end the following new sub-  
16 section:

17       “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**  
18 **TANGIBLE THINGS.**—

19               “(1) Notwithstanding any other provision of  
20 this section, the Attorney General may require the  
21 emergency production of tangible things if the Attor-  
22 ney General—

23                       “(A) reasonably determines that an emer-  
24 gency situation requires the production of tan-

1           gible things before an order authorizing such  
2           production can with due diligence be obtained;

3           “(B) reasonably determines that the fac-  
4           tual basis for the issuance of an order under  
5           this section to approve such production of tan-  
6           gible things exists;

7           “(C) informs, either personally or through  
8           a designee, a judge having jurisdiction under  
9           this section at the time the Attorney General  
10          requires the emergency production of tangible  
11          things that the decision has been made to em-  
12          ploy the authority under this subsection; and

13          “(D) makes an application in accordance  
14          with this section to a judge having jurisdiction  
15          under this section as soon as practicable, but  
16          not later than 7 days after the Attorney Gen-  
17          eral requires the emergency production of tan-  
18          gible things under this subsection.

19          “(2) If the Attorney General authorizes the  
20          emergency production of tangible things under para-  
21          graph (1), the Attorney General shall require that  
22          the minimization procedures required by this section  
23          for the issuance of a judicial order be followed.

24          “(3) In the absence of a judicial order approv-  
25          ing the production of tangible things under this sub-



1 section, the production shall terminate when the in-  
2 formation sought is obtained, when the application  
3 for the order is denied, or after the expiration of 7  
4 days from the time the Attorney General begins re-  
5 quiring the emergency production of such tangible  
6 things, whichever is earliest.

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

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

1 threat of death or serious bodily harm to any per-  
2 son.

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

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

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph  
9 (A), by striking “pursuant to an order” and in-  
10 serting “pursuant to an order issued or an  
11 emergency production required”;

12 (B) in subparagraph (A), by striking “such  
13 order” and inserting “such order or such emer-  
14 gency production”; and

15 (C) in subparagraph (B), by striking “the  
16 order” and inserting “the order or the emer-  
17 gency production”; and

18 (2) in paragraph (2)—

19 (A) in subparagraph (A), by striking “an  
20 order” and inserting “an order or emergency  
21 production”; and

22 (B) in subparagraph (B), by striking “an  
23 order” and inserting “an order or emergency  
24 production”.

1 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**  
2 **GIBLE THINGS.**

3 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.  
4 1861(b)(2)), as amended by section 101(a) of this Act,  
5 is further amended by inserting before subparagraph (B),  
6 as redesignated by such section 101(a) of this Act, the  
7 following new subparagraph:

8 “(A) a specific selection term to be used as  
9 the basis for the production of the tangible  
10 things sought;”.

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

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

17 (2) by adding at the end the following new  
18 paragraph:

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

23 (c) MINIMIZATION PROCEDURES.—Section 501(g)(2)  
24 (50 U.S.C. 1861(g)(2)) is amended—

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

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

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

5                   “(C) for orders in which the specific selec-  
6       tion term does not specifically identify an indi-  
7       vidual, account, or personal device, procedures  
8       that prohibit the dissemination, and require the  
9       destruction within a reasonable time period  
10      (which time period shall be specified in the  
11      order), of any tangible thing or information  
12      therein that has not been determined to relate  
13      to a person who is—

14                   “(i) a subject of an authorized inves-  
15      tigation;

16                   “(ii) a foreign power or a suspected  
17      agent of a foreign power;

18                   “(iii) reasonably likely to have infor-  
19      mation about the activities of—

20                   “(I) a subject of an authorized  
21      investigation; or

22                   “(II) a suspected agent of a for-  
23      eign power who is associated with a  
24      subject of an authorized investigation;  
25      or

1 “(iv) in contact with or known to—  
 2 “(I) a subject of an authorized  
 3 investigation; or  
 4 “(II) a suspected agent of a for-  
 5 eign power who is associated with a  
 6 subject of an authorized investigation,  
 7 unless the tangible thing or information therein  
 8 indicates a threat of death or serious bodily  
 9 harm to any person or is disseminated to an-  
 10 other element of the intelligence community for  
 11 the sole purpose of determining whether the  
 12 tangible thing or information therein relates to  
 13 a person who is described in clause (i), (ii), (iii),  
 14 or (iv); and”; and  
 15 (4) in subparagraph (D), as so redesignated, by  
 16 striking “(A) and (B)” and inserting “(A), (B), and  
 17 (C)”.

18 **SEC. 104. JUDICIAL REVIEW.**

19 (a) MINIMIZATION PROCEDURES.—

20 (1) JUDICIAL REVIEW.—Section 501(c)(1) (50  
 21 U.S.C. 1861(c)(1)) is amended by inserting after  
 22 “subsections (a) and (b)” the following: “and that  
 23 the minimization procedures submitted in accord-  
 24 ance with subsection (b)(2)(D) meet the definition of  
 25 minimization procedures under subsection (g)”.

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

4                   (A) by striking “Not later than 180 days  
 5           after the date of the enactment of the USA PA-  
 6           TRIOT Improvement and Reauthorization Act  
 7           of 2005, the” and inserting “The”; and

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

10          (b) ORDERS.—Section 501(f)(2) (50 U.S.C.  
 11 1861(f)(2)) is amended—

12           (1) in subparagraph (A)(i)—

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

17                   (B) by striking the second sentence; and

18           (2) in subparagraph (C)—

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

20                   (B) by redesignating clause (iii) as clause  
 21           (ii).

22 **SEC. 105. LIABILITY PROTECTION.**

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

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

3 “(A) produces tangible things or provides infor-  
4 mation, facilities, or technical assistance in accord-  
5 ance with an order issued or an emergency produc-  
6 tion required under this section; or

7 “(B) otherwise provides technical assistance to  
8 the Government under this section or to implement  
9 the amendments made to this section by the USA  
10 FREEDOM Act of 2014.

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

15 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

16 Section 501 (50 U.S.C. 1861), as amended by section  
17 102 of this Act, is further amended by adding at the end  
18 the following new subsection:

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

21 “(1) producing tangible things or providing in-  
22 formation, facilities, or assistance in accordance with  
23 an order issued with respect to an application de-  
24 scribed in subsection (b)(2)(C) or an emergency pro-  
25 duction under subsection (i) that, to comply with

1 subsection (i)(1)(D), requires an application de-  
 2 scribed in subsection (b)(2)(C); or

3 “(2) otherwise providing technical assistance to  
 4 the Government under this section or to implement  
 5 the amendments made to this section by the USA  
 6 FREEDOM Act of 2014.”.

7 **SEC. 107. DEFINITIONS.**

8 Section 501 (50 U.S.C. 1861), as amended by section  
 9 106 of this Act, is further amended by adding at the end  
 10 the following new subsection:

11 “(k) DEFINITIONS.—In this section:

12 “(1) ADDRESS.—The term ‘address’ means a  
 13 physical address or electronic address, such as an  
 14 electronic mail address, temporarily assigned net-  
 15 work address, or Internet protocol address.

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

18 “(A) means session identifying information  
 19 (including an originating or terminating tele-  
 20 phone number, an International Mobile Sub-  
 21 scriber Identity number, or an International  
 22 Mobile Station Equipment Identity number), a  
 23 telephone calling card number, or the time or  
 24 duration of a call; and

25 “(B) does not include—



1 “(i) the contents (as defined in section  
2 2510(8) of title 18, United States Code) of  
3 any communication;

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

6 “(iii) cell site location information.

7 “(3) SPECIFIC SELECTION TERM.—

8 “(A) IN GENERAL.—Except as provided in  
9 subparagraph (B), the term ‘specific selection  
10 term’—

11 “(i) means a term that specifically  
12 identifies a person, account, address, or  
13 personal device, or another specific identi-  
14 fier, that is used by the Government to  
15 narrowly limit the scope of tangible things  
16 sought to the greatest extent reasonably  
17 practicable, consistent with the purpose for  
18 seeking the tangible things; and

19 “(ii) does not include a term that does  
20 not narrowly limit the scope of the tangible  
21 things sought to the greatest extent rea-  
22 sonably practicable, consistent with the  
23 purpose for seeking the tangible things,  
24 such as—

1 “(I) a term based on a broad ge-  
2 ographic region, including a city,  
3 State, zip code, or area code, when  
4 not used as part of a specific identi-  
5 fier as described in clause (i); or

6 “(II) a term identifying an elec-  
7 tronic communication service provider  
8 (as that term is defined in section  
9 701) or a provider of remote com-  
10 puting service (as that term is defined  
11 in section 2711 of title 18, United  
12 States Code), when not used as part  
13 of a specific identifier as described in  
14 clause (i), unless the provider is itself  
15 a subject of an authorized investiga-  
16 tion for which the specific selection  
17 term is used as the basis of produc-  
18 tion.

19 “(B) CALL DETAIL RECORD APPLICA-  
20 TIONS.—For purposes of an application sub-  
21 mitted under subsection (b)(2)(C), the term  
22 ‘specific selection term’ means a term that spe-  
23 cifically identifies an individual, account, or per-  
24 sonal device.”.

1 **SEC. 108. 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 2012 through 2014” 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 2012  
 18 through 2014, 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 2012 THROUGH 2014.—  
6 Not later than December 31, 2015, 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 2012 through 2014.”;

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, 2012, and ending on December 31,  
22 2014, the Inspector General of the Intelligence Com-  
23 munity shall assess—

24 “(A) the importance of the information ac-  
25 quired under title V of the Foreign Intelligence

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

4 “(B) the manner in which that information  
5 was collected, retained, analyzed, and dissemi-  
6 nated by the intelligence community;

7 “(C) the minimization procedures used by  
8 elements of the intelligence community under  
9 such title and whether the minimization proce-  
10 dures adequately protect the constitutional  
11 rights of United States persons; and

12 “(D) any minimization procedures pro-  
13 posed by an element of the intelligence commu-  
14 nity under such title that were modified or de-  
15 nied by the court established under section  
16 103(a) of such Act (50 U.S.C. 1803(a)).

17 “(2) SUBMISSION DATE FOR ASSESSMENT.—  
18 Not later than 180 days after the date on which the  
19 Inspector General of the Department of Justice sub-  
20 mits the report required under subsection (c)(3), the  
21 Inspector General of the Intelligence Community  
22 shall submit to the Committee on the Judiciary and  
23 the Select Committee on Intelligence of the Senate  
24 and the Committee on the Judiciary and the Perma-  
25 nent Select Committee on Intelligence of the House

1 of Representatives a report containing the results of  
2 the assessment for calendar years 2012 through  
3 2014.”;

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

6 (A) in paragraph (1)—

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

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

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

1 (6) in subsection (f), as redesignated by para-  
 2 graph (3)—

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

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

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

11 “(g) DEFINITIONS.—In this section:

12 “(1) INTELLIGENCE COMMUNITY.—The term  
 13 ‘intelligence community’ has the meaning given that  
 14 term in section 3 of the National Security Act of  
 15 1947 (50 U.S.C. 3003).

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

20 **SEC. 109. EFFECTIVE DATE.**

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

24 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
 25 shall be construed to alter or eliminate the authority of

1 the Government to obtain an order under title V of the  
 2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
 3 1861 et seq.) as in effect prior to the effective date de-  
 4 scribed in subsection (a) during the period ending on such  
 5 effective date.

6 **SEC. 110. RULE OF CONSTRUCTION.**

7 Nothing in this Act shall be construed to authorize  
 8 the production of the contents (as such term is defined  
 9 in section 2510(8) of title 18, United States Code) of any  
 10 electronic communication from an electronic communica-  
 11 tion service provider (as such term is defined in section  
 12 701(b)(4) of the Foreign Intelligence Surveillance Act of  
 13 1978 (50 U.S.C. 1881(b)(4)) under title V of the Foreign  
 14 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et  
 15 seq.).

16 **TITLE II—FISA PEN REGISTER**  
 17 **AND TRAP AND TRACE DE-**  
 18 **VICE REFORM**

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

20 (a) PROHIBITION.—Section 402(c) (50 U.S.C.  
 21 1842(c)) is amended—

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

24 (2) in paragraph (2)—



1 (A) by striking “a certification by the ap-  
2 plicant” and inserting “a statement of the facts  
3 and circumstances relied upon by the applicant  
4 to justify the belief of the applicant”; and

5 (B) by striking the period and inserting “;  
6 and”; and

7 (3) by adding at the end the following new  
8 paragraph:

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

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

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

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

24 “(ii) does not include a term that does not  
25 narrowly limit the scope of information sought

1 to the greatest extent reasonably practicable,  
2 consistent with the purpose for the installation  
3 or use of the pen register or trap and trace de-  
4 vice, such as—

5 “(I) a term based on a broad geo-  
6 graphic region, including a city, State, zip  
7 code, or area code, when not used as part  
8 of a specific identifier as described in  
9 clause (i); or

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

22 “(B) For purposes of subparagraph (A), the  
23 term ‘address’ means a physical address or elec-  
24 tronic address, such as an electronic mail address,

1 temporarily assigned network address, or Internet  
 2 protocol address.”.

3 **SEC. 202. PRIVACY PROCEDURES.**

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

7 “(h) PRIVACY PROCEDURES.—

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

19 “(2) RULE OF CONSTRUCTION.—Nothing in  
 20 this subsection shall be construed to limit the au-  
 21 thority of the court established under section 103(a)  
 22 or of the Attorney General to impose additional pri-  
 23 vacy or minimization procedures with regard to the  
 24 installation or use of a pen register or trap and  
 25 trace device.

1           “(3) COMPLIANCE ASSESSMENT.—At or before  
 2           the end of the period of time for which the installa-  
 3           tion and use of a pen register or trap and trace de-  
 4           vice is approved under an order or an extension  
 5           under this section, the judge may assess compliance  
 6           with the privacy procedures required by this sub-  
 7           section by reviewing the circumstances under which  
 8           information concerning United States persons was  
 9           collected, retained, or disseminated.”.

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

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

17 **TITLE III—FISA ACQUISITIONS**  
 18 **TARGETING PERSONS OUT-**  
 19 **SIDE THE UNITED STATES RE-**  
 20 **FORMS**

21 **SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**  
 22 **FORMATION.**

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

1           “(D) LIMITATION ON USE OF INFORMA-  
2           TION.—

3           “(i) IN GENERAL.—Except as pro-  
4           vided in clause (ii), if the Court orders a  
5           correction of a deficiency in a certification  
6           or procedures under subparagraph (B), no  
7           information obtained or evidence derived  
8           pursuant to the part of the certification or  
9           procedures that has been identified by the  
10          Court as deficient concerning any United  
11          States person shall be received in evidence  
12          or otherwise disclosed in any trial, hearing,  
13          or other proceeding in or before any court,  
14          grand jury, department, office, agency,  
15          regulatory body, legislative committee, or  
16          other authority of the United States, a  
17          State, or political subdivision thereof, and  
18          no information concerning any United  
19          States person acquired pursuant to such  
20          part of such certification or procedures  
21          shall subsequently be used or disclosed in  
22          any other manner by Federal officers or  
23          employees without the consent of the  
24          United States person, except with the ap-  
25          proval of the Attorney General if the infor-

mation indicates a threat of death or serious bodily harm to any person.

“(ii) EXCEPTION.—If the Government corrects any deficiency identified by the order of the Court under subparagraph (B), the Court may permit the use or disclosure of information obtained before the date of the correction under such minimization procedures as the Court shall establish for purposes of this clause.”.

## **TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS**

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

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

“(i) AMICUS CURIAE.—

“(1) APPOINTMENT OF SPECIAL ADVOCATES.—

In consultation with the Privacy and Civil Liberties Oversight Board, the presiding judges of the courts established under subsections (a) and (b) shall, not later than 180 days after the enactment of this subsection, jointly appoint not fewer than 5 attorneys to serve as special advocates, who shall serve pursuant to rules the presiding judges may establish. Such in-

dividuals shall be persons who possess expertise in privacy and civil liberties, intelligence collection, telecommunications, or any other relevant area of expertise and who are determined to be eligible for access to classified information necessary to participate in matters before the courts.

“(2) AUTHORIZATION.—A court established under subsection (a) or (b), consistent with the requirement of subsection (c) and any other statutory requirement that the court act expeditiously or within a stated time—

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

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

“(3) RULE OF CONSTRUCTION.—An application for an order or review shall be considered to present

1 a novel or significant interpretation of the law if  
2 such application involves application of settled law to  
3 novel technologies or circumstances, or any other  
4 novel or significant construction or interpretation of  
5 any provision of law or of the Constitution of the  
6 United States, including any novel and significant  
7 interpretation of the term ‘specific selection term’.

8 “(4) DUTIES.—

9 “(A) IN GENERAL.—If a court established  
10 under subsection (a) or (b) designates a special  
11 advocate to participate as an amicus curiae in  
12 a proceeding, the special advocate—

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

16 “(ii) shall have access to all relevant  
17 legal precedent, and any application, cer-  
18 tification, petition, motion, or such other  
19 materials as are relevant to the duties of  
20 the special advocate;

21 “(iii) may consult with any other spe-  
22 cial advocates regarding information rel-  
23 evant to any assigned case, including shar-  
24 ing relevant materials; and



1           “(iv) may request that the court ap-  
2           point technical and subject matter experts,  
3           not employed by the Government, to be  
4           available to assist the special advocate in  
5           performing the duties of the special advo-  
6           cate.

7           “(B) BRIEFINGS OR ACCESS TO MATE-  
8           RIALS.—The Attorney General shall periodically  
9           brief or provide relevant materials to special ad-  
10          vocates regarding constructions and interpreta-  
11          tions of this Act and legal, technological and  
12          other issues related to actions authorized by  
13          this Act.

14          “(C) ACCESS TO CLASSIFIED INFORMA-  
15          TION.—

16               “(i) IN GENERAL.—A special advo-  
17              cate, experts appointed to assist a special  
18              advocate, or any other amicus or technical  
19              expert appointed by the court may have ac-  
20              cess to classified documents, information,  
21              and other materials or proceedings only if  
22              that individual is eligible for access to clas-  
23              sified information and to the extent con-  
24              sistent with the national security of the  
25              United States.

1                   “(ii) RULE OF CONSTRUCTION.—

2                   Nothing in this section shall be construed  
3                   to require the Government to provide infor-  
4                   mation to a special advocate, other amicus,  
5                   or technical expert that is privileged from  
6                   disclosure.

7                   “(5) NOTIFICATION.—The presiding judges of  
8                   the courts established under subsections (a) and (b)  
9                   shall notify the Attorney General of each exercise of  
10                  the authority to appoint an individual to serve as  
11                  amicus curiae under paragraph (1).

12                  “(6) ASSISTANCE.—A court established under  
13                  subsection (a) or (b) may request and receive (in-  
14                  cluding on a non-reimbursable basis) the assistance  
15                  of the executive branch in the implementation of this  
16                  subsection.

17                  “(7) ADMINISTRATION.—A court established  
18                  under subsection (a) or (b) may provide for the des-  
19                  ignation, appointment, removal, training, or other  
20                  support for an individual appointed to serve as a  
21                  special advocate under paragraph (1) in a manner  
22                  that is not inconsistent with this subsection.

23                  “(j) REVIEW OF FISA COURT DECISIONS.—After  
24                  issuing an order, a court established under subsection (a)  
25                  shall certify for review to the court established under sub-

1 section (b) any question of law that the court determines  
 2 warrants such review because of a need for uniformity or  
 3 because consideration by the court established under sub-  
 4 section (b) would serve the interests of justice. Upon cer-  
 5 tification of a question of law under this paragraph, the  
 6 court established under subsection (b) may give binding  
 7 instructions or require the entire record to be sent up for  
 8 decision of the entire matter in controversy.

9 “(k) REVIEW OF FISA COURT OF REVIEW DECI-  
 10 SIONS.—

11 “(1) CERTIFICATION.—For any decision issued  
 12 by the court of review established under subsection  
 13 (b) approving, in whole or in part, an application by  
 14 the Government under this Act, such court may cer-  
 15 tify at any time, including after a decision, a ques-  
 16 tion of law to be reviewed by the Supreme Court of  
 17 the United States.

18 “(2) SPECIAL ADVOCATE BRIEFING.—Upon cer-  
 19 tification of an application under paragraph (1), the  
 20 court of review established under subsection (b) may  
 21 designate a special advocate to provide briefing as  
 22 prescribed by the Supreme Court.

23 “(3) REVIEW.—The Supreme Court may review  
 24 any question of law certified under paragraph (1) by  
 25 the court of review established under subsection (b)

1 in the same manner as the Supreme Court reviews  
2 questions certified under section 1254(2) of title 28,  
3 United States Code.

4 “(l) PAYMENT FOR SERVICE AS SPECIAL ADVO-  
5 CATE.—A special advocate designated in a proceeding pur-  
6 suant to subsection (i)(2)(A) of this section may seek, at  
7 the conclusion of the proceeding in which the special advo-  
8 cate was designated, compensation for services provided  
9 pursuant to the designation. A special advocate seeking  
10 compensation shall be compensated in an amount reflect-  
11 ing fair compensation for the services provided, as deter-  
12 mined by the court designating the special advocate and  
13 approved by the presiding judges of the courts established  
14 under subsections (a) and (b).

15 “(m) APPROPRIATIONS.—There are authorized to be  
16 appropriated to the United States courts such sums as  
17 may be necessary to carry out the provisions of this sec-  
18 tion. When so specified in appropriation acts, such appro-  
19 priations shall remain available until expended. Payments  
20 from such appropriations shall be made under the super-  
21 vision of the Director of the Administrative Office of the  
22 United States Courts.”.

1 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**  
 2 **OPINIONS.**

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

5 (1) in the heading, by striking “**REPORT-**  
 6 **ING REQUIREMENT**” and inserting “**OVER-**  
 7 **SIGHT**”; and

8 (2) by adding at the end the following new sec-  
 9 tion:

10 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**  
 11 **ORDERS, AND OPINIONS.**

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

24 “(b) REDACTED FORM.—The Director of National  
 25 Intelligence, in consultation with the Attorney General,  
 26 may satisfy the requirement under subsection (a) to make

1 a decision, order, or opinion described in such subsection  
2 publicly available to the greatest extent practicable by  
3 making such decision, order, or opinion publicly available  
4 in redacted form.

5 “(c) NATIONAL SECURITY WAIVER.—The Director of  
6 National Intelligence, in consultation with the Attorney  
7 General, may waive the requirement to declassify and  
8 make publicly available a particular decision, order, or  
9 opinion under subsection (a) if—

10 “(1) the Director of National Intelligence, in  
11 consultation with the Attorney General, determines  
12 that a waiver of such requirement is necessary to  
13 protect the national security of the United States or  
14 properly classified intelligence sources or methods;  
15 and

16 “(2) the Director of National Intelligence  
17 makes publicly available an unclassified statement  
18 prepared by the Attorney General, in consultation  
19 with the Director of National Intelligence—

20 “(A) summarizing the significant construc-  
21 tion or interpretation of law, which shall in-  
22 clude, to the extent consistent with national se-  
23 curity, each legal question addressed by the de-  
24 cision and how such question was resolved, in  
25 general terms the context in which the matter

1 arises, and a description of the construction or  
 2 interpretation of any statute, constitutional pro-  
 3 vision, or other legal authority relied on by the  
 4 decision; and

5 “(B) that specifies that the statement has  
 6 been prepared by the Attorney General and  
 7 constitutes no part of the opinion of the For-  
 8 eign Intelligence Surveillance Court or the For-  
 9 eign Intelligence Surveillance Court of Re-  
 10 view.”.

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

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

“TITLE VI—OVERSIGHT”;

15 and

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

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

## 18 **TITLE V—NATIONAL SECURITY** 19 **LETTER REFORM**

### 20 **SEC. 501. PROHIBITION ON BULK COLLECTION.**

21 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE  
 22 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)  
 23 of title 18, United States Code, is amended in the matter  
 24 preceding paragraph (1) by striking “may” and inserting

1 “may, using a term that specifically identifies a person,  
 2 entity, telephone number, or account as the basis for a  
 3 request”.

4 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
 5 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
 6 1114(a)(2) of the Right to Financial Privacy Act of 1978  
 7 (12 U.S.C. 3414(a)(2)) is amended by striking the period  
 8 and inserting “and a term that specifically identifies a cus-  
 9 tomer, entity, or account to be used as the basis for the  
 10 production and disclosure of financial records.”.

11 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER  
 12 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-  
 13 tion 626 of the Fair Credit Reporting Act (15 U.S.C.  
 14 1681u) is amended—

15 (1) in subsection (a), by striking “that informa-  
 16 tion,” and inserting “that information that includes  
 17 a term that specifically identifies a consumer or ac-  
 18 count to be used as the basis for the production of  
 19 that information,”;

20 (2) in subsection (b), by striking “written re-  
 21 quest,” and inserting “written request that includes  
 22 a term that specifically identifies a consumer or ac-  
 23 count to be used as the basis for the production of  
 24 that information,”; and



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

5           (d) DISCLOSURES TO GOVERNMENTAL AGENCIES  
6 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-  
7 PORTS.—Section 627(a) of the Fair Credit Reporting Act  
8 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”  
9 and inserting “analysis and that includes a term that spe-  
10 cifically identifies a consumer or account to be used as  
11 the basis for the production of such information.”.

12 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**  
13 **CURITY LETTERS.**

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

18           “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

19                   “(1) PROHIBITION.—

20                           “(A) IN GENERAL.—If a certification is  
21                   issued under subparagraph (B) and notice of  
22                   the right to judicial review under subsection (d)  
23                   is provided, no wire or electronic communica-  
24                   tion service provider that receives a request  
25                   under subsection (b), or officer, employee, or

1 agent thereof, shall disclose to any person that  
2 the Federal Bureau of Investigation has sought  
3 or obtained access to information or records  
4 under this section.

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

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

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

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

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

23 “(2) EXCEPTION.—

24 “(A) IN GENERAL.—A wire or electronic  
25 communication service provider that receives a

1 request under subsection (b), or officer, em-  
2 ployee, or agent thereof, may disclose informa-  
3 tion otherwise subject to any applicable non-  
4 disclosure requirement to—

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

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

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

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

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

“(D) IDENTIFICATION OF DISCLOSURE RECIPIENTS.—At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.

“(3) TERMINATION.—

“(A) IN GENERAL.—In the case of any request under subsection (b) for which a recipient has submitted a notification to the Government under section 3511(b)(1)(A) or filed a petition for judicial review under subsection (d)—

“(i) an appropriate official of the Federal Bureau of Investigation shall, until termination of the nondisclosure requirement, review the facts supporting a nondisclosure requirement annually and upon closure of the investigation; and

“(ii) if, upon a review under clause (i), the facts no longer support the nondisclosure requirement, an appropriate official of the Federal Bureau of Investigation

1 shall promptly notify the wire or electronic  
2 service provider, or officer, employee, or  
3 agent thereof, subject to the nondisclosure  
4 requirement, and the court as appropriate,  
5 that the nondisclosure requirement is no  
6 longer in effect.

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

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

17 “(ii) the court shall review such a pe-  
18 tition pursuant to the procedures under  
19 section 3511; and

20 “(iii) if the court determines that  
21 there is reason to believe that disclosure  
22 may result in the harm described in clause  
23 (i), (ii), (iii), or (iv) of paragraph (1)(B),  
24 the Federal Bureau of Investigation shall  
25 no longer be required to conduct the an-

1                   nual review of the facts supporting the  
 2                   nondisclosure requirement under subpara-  
 3                   graph (A).”.

4           (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
 5 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
 6 1114 of the Right to Financial Privacy Act of 1978 (12  
 7 U.S.C. 3414) is amended—

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

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

12           “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

13                   “(1) PROHIBITION.—

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

23                           “(B) CERTIFICATION.—The requirements  
 24                           of subparagraph (A) shall apply if the Director  
 25                           of the Federal Bureau of Investigation, or a

1           designee of the Director whose rank shall be no  
2           lower than Deputy Assistant Director at Bu-  
3           reau headquarters or a Special Agent in Charge  
4           of a Bureau field office, certifies that the ab-  
5           sence of a prohibition of disclosure under this  
6           subsection may result in—

7                   “(i) a danger to the national security  
8                   of the United States;

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

12                  “(iii) interference with diplomatic re-  
13                  lations; or

14                  “(iv) danger to the life or physical  
15                  safety of any person.

16           “(2) EXCEPTION.—

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

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

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

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

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

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

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



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

3 “(3) TERMINATION.—

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

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

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

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

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

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

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

24 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND  
 25 CREDIT REPORTS.—Section 626 of the Fair Credit Re-

1 porting Act (15 U.S.C. 1681u) is amended by striking  
2 subsection (d) and inserting the following new subsection:

3 “(d) 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 (e)  
8 is provided, no consumer reporting agency that  
9 receives a request under subsection (a) or (b) or  
10 an order under subsection (c), or officer, em-  
11 ployee, or agent thereof, shall disclose or specify  
12 in any consumer report, that the Federal Bu-  
13 reau of Investigation has sought or obtained ac-  
14 cess to information or records under subsection  
15 (a), (b), or (c).

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

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

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

6 “(iii) interference with diplomatic re-  
7 lations; or

8 “(iv) danger to the life or physical  
9 safety of any person.

10 “(2) EXCEPTION.—

11 “(A) IN GENERAL.—A consumer reporting  
12 agency that receives a request under subsection  
13 (a) or (b) or an order under subsection (c), or  
14 officer, employee, or agent thereof, may disclose  
15 information otherwise subject to any applicable  
16 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 under subsection (a) or (b) or an order under  
 6 subsection (c) is issued in the same manner as  
 7 the person to whom the request is 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.—

23           “(A) IN GENERAL.—In the case of any re-  
 24 quest under subsection (a) or (b) or order  
 25 under subsection (c) for which a recipient has

1 submitted a notification to the Government  
2 under section 3511(b)(1)(A) of title 18, United  
3 States Code, or filed a petition for judicial re-  
4 view under subsection (e)—

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

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

21 “(B) CLOSURE OF INVESTIGATION.—Upon  
22 closure of the investigation—

23 “(i) the Federal Bureau of Investiga-  
24 tion may petition the court before which a  
25 notification or petition for judicial review

under subsection (e) has been filed for a determination that disclosure may result in the harm described in clause (i), (ii), (iii), or (iv) of paragraph (1)(B), if it notifies the recipient of such petition;

“(ii) the court shall review such a petition pursuant to the procedures under section 3511 of title 18, United States Code; and

“(iii) if the court determines that there is reason to believe that disclosure may result in the harm described in clause (i), (ii), (iii), or (iv) of paragraph (1)(B), the Federal Bureau of Investigation shall no longer be required to conduct the annual review of the facts supporting the nondisclosure requirement under subparagraph (A).”.

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

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

1           “(A) IN GENERAL.—If a certification is  
2           issued under subparagraph (B) and notice of  
3           the right to judicial review under subsection (d)  
4           is provided, no consumer reporting agency that  
5           receives a request under subsection (a), or offi-  
6           cer, employee, or agent thereof, shall disclose or  
7           specify in any consumer report, that a govern-  
8           ment agency described in subsection (a) has  
9           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 head of  
13          the government agency described in subsection  
14          (a), or a designee, certifies that the absence of  
15          a prohibition of disclosure under this subsection  
16          may result in—

17               “(i) a danger to the national security  
18               of the United States;

19               “(ii) interference with a criminal,  
20               counterterrorism, or counterintelligence in-  
21               vestigation;

22               “(iii) interference with diplomatic re-  
23               lations; or

24               “(iv) danger to the life or physical  
25               safety of any person.



1 “(2) EXCEPTION.—

2 “(A) IN GENERAL.—A consumer reporting  
3 agency that receives a request under subsection  
4 (a), or officer, employee, or agent thereof, may  
5 disclose information otherwise subject to any  
6 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 head of the government agency de-  
15 scribed in subsection (a) or a designee.

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 under subsection (a) is issued in the same man-  
21 ner as the person to whom the request is  
22 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 head of the  
5 government agency described in subsection (a)  
6 or a designee, any person making or intending  
7 to make a disclosure under clause (i) or (iii) of  
8 subparagraph (A) shall identify to the head or  
9 such designee the person to whom such disclo-  
10 sure will be made or to whom such disclosure  
11 was made prior to the request.

12 “(3) TERMINATION.—

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

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

1 “(ii) if, upon a review under clause  
2 (i), the facts no longer support the non-  
3 disclosure requirement, an appropriate offi-  
4 cial of the agency described in subsection  
5 (a) shall promptly notify the consumer re-  
6 porting agency, or officer, employee, or  
7 agent thereof, subject to the nondisclosure  
8 requirement, and the court as appropriate,  
9 that the nondisclosure requirement is no  
10 longer in effect.

11 “(B) CLOSURE OF INVESTIGATION.—Upon  
12 closure of the investigation—

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

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

1                   “(iii) if the court determines that  
 2                   there is reason to believe that disclosure  
 3                   may result in the harm described in clause  
 4                   (i), (ii), (iii), or (iv) of paragraph (1)(B),  
 5                   the agency described in subsection (1) shall  
 6                   no longer be required to conduct the an-  
 7                   nual review of the facts supporting the  
 8                   nondisclosure requirement under subpara-  
 9                   graph (A).”.

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

15           “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

16                   “(1) PROHIBITION.—

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

1 sought or obtained access to information under  
2 subsection (a).

3 “(B) CERTIFICATION.—The requirements  
4 of subparagraph (A) shall apply if the head of  
5 an authorized investigative agency described in  
6 subsection (a), or a designee, certifies that the  
7 absence of a prohibition of disclosure under this  
8 subsection may result in—

9 “(i) a danger to the national security  
10 of the United States;

11 “(ii) interference with a criminal,  
12 counterterrorism, or counterintelligence in-  
13 vestigation;

14 “(iii) interference with diplomatic re-  
15 lations; or

16 “(iv) danger to the life or physical  
17 safety of any person.

18 “(2) EXCEPTION.—

19 “(A) IN GENERAL.—A governmental or  
20 private entity that receives a request under sub-  
21 section (a), or officer, employee, or agent there-  
22 of, may disclose information otherwise subject  
23 to any applicable nondisclosure requirement  
24 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 head of the authorized investigative  
9           agency described in subsection (a) or a  
10          designee.

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

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

23          “(D) IDENTIFICATION OF DISCLOSURE RE-  
24          CIPIENTS.—At the request of the head of an  
25          authorized investigative agency described in

1 subsection (a), or a designee, any person mak-  
2 ing or intending to make a disclosure under  
3 clause (i) or (iii) of subparagraph (A) shall  
4 identify to the head of the authorized investiga-  
5 tive agency or such designee the person to  
6 whom such disclosure will be made or to whom  
7 such disclosure was made prior to the request.

8 “(3) TERMINATION.—

9 “(A) IN GENERAL.—In the case of any re-  
10 quest for which a recipient has submitted a no-  
11 tification to the Government under section  
12 3511(b)(1)(A) of title 18, United States Code,  
13 or filed a petition for judicial review under sub-  
14 section (c)—

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

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

1 making the request under subsection (a)  
2 shall promptly notify the recipient of the  
3 request, or officer, employee, or agent  
4 thereof, subject to the nondisclosure re-  
5 quirement, and the court as appropriate,  
6 that the nondisclosure requirement is no  
7 longer in effect.

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

10 “(i) the authorized investigative agen-  
11 cy making the request under subsection (a)  
12 may petition the court before which a noti-  
13 fication or petition for judicial review  
14 under subsection (c) has been filed for a  
15 determination that disclosure may result in  
16 the harm described in clause (i), (ii), (iii),  
17 or (iv) of paragraph (1)(B), if it notifies  
18 the recipient of such petition;

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

23 “(iii) if the court determines that  
24 there is reason to believe that disclosure  
25 may result in the harm described in clause



1 (i), (ii), (iii), or (iv) of paragraph (1)(B),  
 2 the authorized investigative agency shall no  
 3 longer be required to conduct the annual  
 4 review of the facts supporting the non-  
 5 disclosure requirement under subparagraph  
 6 (A).”.

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

10 “(b) NONDISCLOSURE.—

11 “(1) IN GENERAL.—

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

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

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

24          “(2) APPLICATION CONTENTS.—An application  
25          for a nondisclosure order or extension thereof or a

1 response to a petition filed under paragraph (1)  
2 shall include a certification from the Attorney Gen-  
3 eral, Deputy Attorney General, an Assistant Attor-  
4 ney General, or the Director of the Federal Bureau  
5 of Investigation, or a designee in a position not  
6 lower than Deputy Assistant Director at Bureau  
7 headquarters or a Special Agent in Charge in a Bu-  
8 reau field office designated by the Director, or in the  
9 case of a request by a department, agency, or instru-  
10 mentality of the Federal Government other than the  
11 Department of Justice, the head or deputy head of  
12 the department, agency, or instrumentality, con-  
13 taining a statement of specific facts indicating that  
14 the absence of a prohibition of disclosure under this  
15 subsection may result in—

16 “(A) a danger to the national security of  
17 the United States;

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

20 “(C) interference with diplomatic relations;

21 or

22 “(D) danger to the life or physical safety  
23 of any person.

24 “(3) STANDARD.—A district court of the  
25 United States shall issue a nondisclosure order or

1 extension thereof under this subsection if the court  
 2 determines that there is reason to believe that disclo-  
 3 sure of the information subject to the nondisclosure  
 4 requirement during the applicable time period may  
 5 result in—

6 “(A) a danger to the national security of  
 7 the United States;

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

10 “(C) interference with diplomatic relations;

11 or

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

14 **SEC. 503. JUDICIAL REVIEW.**

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

18 (1) by redesignating subsections (d), (e), and  
 19 (f) as subsections (e), (f), and (g), respectively; and

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

22 “(d) JUDICIAL REVIEW.—

23 “(1) IN GENERAL.—A request under subsection  
 24 (b) or a nondisclosure requirement imposed in con-

1        nection with such request under subsection (c) shall  
 2        be subject to judicial review under section 3511.

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

6        (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN  
 7 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section  
 8 1114 of the Right to Financial Privacy Act of 1978 (12  
 9 U.S.C. 3414) is amended—

10           (1) by redesignating subsection (d) as sub-  
 11        section (e); and

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

14        “(d) JUDICIAL REVIEW.—

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

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

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

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

3           (2) by inserting after subsection (d) the fol-  
4           lowing new subsection:

5           “(e) JUDICIAL REVIEW.—

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

12          “(2) NOTICE.—A request under subsection (a)  
13          or (b) or an order under subsection (c) shall include  
14          notice of the availability of judicial review described  
15          in paragraph (1).”.

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

19               (1) by redesignating subsections (d), (e), and  
20               (f) as subsections (e), (f), and (g), respectively; and

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

23               “(d) JUDICIAL REVIEW.—

24               “(1) IN GENERAL.—A request under subsection  
25               (a) or a non-disclosure requirement imposed in con-

1        nection with such request under subsection (c) shall  
 2        be subject to judicial review under section 3511 of  
 3        title 18, United States Code.

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

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

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

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

14        “(c) JUDICIAL REVIEW.—

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

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

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

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

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

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

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

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

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

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

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

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



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

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

5 **“SEC. 603. ANNUAL REPORTS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5       “(e) EXCEPTIONS.—

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

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

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



1 “(4) CERTIFICATION.—

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

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

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

18 “(B) CONTENT.—

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

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

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

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

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

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

13          “(g) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec. 603. Annual reports.”.

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

17 (1) in paragraph (1)—

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

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

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

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

3           “(2) CONTENT.—

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

10                           “(i) United States persons; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18                 “(i) title IV;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

son did not previously receive such an order or directive (not including an enhancement to or iteration of an existing publicly available platform, product, or service)—

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

“(ii) for a report published on or after the date on which the 540-day waiting period expires, shall include information relating to such new order or directive reported pursuant to subparagraph (B)(ii).

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

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

“(A) ending on the date that is not less than 1 year before the date on which the information is publicly reported; and

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

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

6       “(d) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 16 **TITLE VII—SUNSETS**

### 17 **SEC. 701. SUNSETS.**

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

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



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

Calendar No. 499

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session  
**S. 2685**

**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.

JULY 30, 2014

Read the second time and placed on the calendar