

Whereas, in 1990, the Government of Mongolia declared an end to a one-party, authoritarian, Communist political system and adopted a lasting, multiparty democracy and free market reforms;

Whereas the Government of Mongolia has demonstrated a commitment to democracy and continues to strengthen democratic institutions in Mongolia;

Whereas the Government of Mongolia is an important leader in, and model for, the successful and peaceful transition to democracy;

Whereas Mongolia successfully chaired the Community of Democracies, which was held in Ulaanbaatar in 2013, and sponsored a United Nations General Assembly resolution entitled "Education for Democracy" (United Nations General Assembly Resolution 69/268 (2015)) to promote democratic institutions, civic life, and human rights;

Whereas President Tsakhiagiin Elbegdorj has stated that Mongolia is willing to serve as "a center of democracy education, a life model for challenges and opportunities of freedom";

Whereas Mongolia is committed to freedom of expression and other basic human rights, becoming the first country in Asia to chair the Freedom Online Coalition and hosting the annual Freedom Online conference in Ulaanbaatar in May 2015;

Whereas Mongolia will host the 11th Asia-Europe Meeting (ASEM) Summit in 2016 in Ulaanbaatar, which will bring together European and Asian countries in an informal dialogue to address political, economic, social, cultural, and educational issues, with the objective of strengthening the relationship between the two regions in a spirit of mutual respect and equal partnership;

Whereas the Government of Mongolia established an International Cooperation Fund to share experiences and to support the advance of democracy and democratic values in other emerging nations, including Kyrgyzstan, Afghanistan, and Burma; and

Whereas the United States Government has a longstanding commitment, because of the interests and values of the United States, to encourage economic and political reforms in Mongolia: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the people and the Government of Mongolia on the 25th anniversary of the first democratic elections in Mongolia, which will be celebrated on July 29, 2015;

(2) commends Mongolia for a peaceful and successful democratic transition;

(3) expresses support for the continued efforts of the Government of Mongolia to promote democracy, transparency, rule of law, and other shared values between Mongolia and the United States;

(4) acknowledges the shared interest of the United States Government and the Government of Mongolia in promoting peace and stability in Northeast and Central Asia;

(5) recognizes the role of Mongolia as a global leader for emerging democracies;

(6) recognizes that the United States should continue to support actions taken by the Government of Mongolia to—

(A) further develop democratic institutions; and

(B) promote transparency, accountability, and community engagement; and

(7) recommends that the United States Government expand academic, cultural, and other people-to-people partnerships between Mongolia and the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1454. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to

be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table.

SA 1455. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill H.R. 2048, supra; which was ordered to lie on the table.

SA 1456. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1457. Mr. UDALL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table.

SA 1458. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, supra; which was ordered to lie on the table.

SA 1459. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, supra; which was ordered to lie on the table.

SA 1460. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, supra; which was ordered to lie on the table.

SA 1461. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1462. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1454. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . PROHIBITION ON DATA SECURITY VULNERABILITY MANDATES.

(a) IN GENERAL.—Except as provided in subsection (b), no agency may mandate that a manufacturer, developer, or seller of covered products design or alter the security

functions in its product or service to allow the surveillance of any user of such product or service, or to allow the physical search of such product, by any agency.

(b) EXCEPTION.—Subsection (a) shall not apply to mandates authorized under the Communications Assistance for Law Enforcement Act (47 U.S.C. 1001 et seq.).

(c) DEFINITIONS.—In this section—

(1) the term "agency" has the meaning given the term in section 3502 of title 44, United States Code; and

(2) the term "covered product" means any computer hardware, computer software, or electronic device that is made available to the general public.

SA 1455. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . CLARIFICATION ON PROHIBITION ON SEARCHING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS SEARCHES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

(2) by striking "An acquisition" and inserting the following:

"(1) IN GENERAL.—An acquisition"; and

(3) by adding at the end the following:

"(2) CLARIFICATION ON PROHIBITION ON SEARCHING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States may conduct a search of a collection of communications acquired under this section in an effort to find communications of a particular United States person (other than a corporation).

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

"(i) such United States person is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

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

"(iii) such United States person has consented to the search."

SA 1456. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department

of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

SEC. —. ADDITIONAL INFORMATION SUPPORTING LONG-RANGE PLANS FOR CONSTRUCTION OF NAVAL VESSELS.

Section 231(b)(2)(C) of title 10, United States Code, is amended by inserting “by ship class in both graphical and tabular form” after “The estimated levels of annual funding”.

SA 1457. Mr. UDALL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IX—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD REFORM

SEC. 901. SHORT TITLES.

This title may be cited as the “Strengthening Privacy, Oversight, and Transparency Act” or the “SPOT Act”.

SEC. 902. INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES IN OVERSIGHT AUTHORITY OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended by inserting “and conduct foreign intelligence activities” after “terrorism” in the following provisions:

- (1) Paragraphs (1) and (2) of subsection (c).
- (2) Subparagraphs (A) and (B) of subsection (d)(1).
- (3) Subparagraphs (A), (B), and (C) of subsection (d)(2).

SEC. 903. SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by section 902, is further amended—

- (1) in subsection (d), by adding at the end the following new paragraph:

“(5) WHISTLEBLOWER COMPLAINTS.—

“(A) SUBMISSION TO BOARD.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern.

“(B) AUTHORITY OF BOARD.—The Board may take such action as the Board considers appropriate with respect to investigating a complaint or information submitted under subparagraph (A) or transmitting such complaint or information to any other Executive agency or the congressional intelligence committees.

“(C) RELATIONSHIP TO EXISTING LAWS.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under another provision of law to submit a complaint or information. Any action taken under any other provision of law by the re-

cipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

“(D) RELATIONSHIP TO ACTIONS TAKEN UNDER OTHER LAWS.—Nothing in this paragraph shall prevent—

“(i) any individual from submitting a complaint or information to any authorized recipient of the complaint or information; or

“(ii) the recipient of a complaint or information from taking independent action on the complaint or information.”; and

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

“(n) DEFINITIONS.—In this section, the terms ‘congressional intelligence committees’ and ‘intelligence community’ have the meaning given such terms in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).”.

SEC. 904. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.

Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

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

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 905. APPOINTMENT OF STAFF OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

Section 1061(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) APPOINTMENT IN ABSENCE OF CHAIRMAN.—If the position of chairman of the Board is vacant, during the period of the vacancy the Board, at the direction of the majority of the members of the Board, may exercise the authority of the chairman under paragraph (1).”.

SEC. 906. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) IN GENERAL.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by sections 902 and 903, is further amended—

(1) in subsection (h)—

(A) in paragraph (1), by inserting “full-time” after “4 additional”; and

(B) in paragraph (4)(B), by striking “, except that” and all that follows through the end and inserting a period;

(2) in subsection (i)(1)—

(A) in subparagraph (A), by striking “level III of the Executive Schedule under section 5314” and inserting “level II of the Executive Schedule under section 5313”; and

(B) in subparagraph (B), by striking “level IV of the Executive Schedule” and all that follows through the end and inserting “level III of the Executive Schedule under section 5314 of title 5, United States Code.”; and

(3) in subsection (j)(1), by striking “level V of the Executive Schedule under section 5316” and inserting “level IV of the Executive Schedule under section 5315”.

(b) EFFECTIVE DATE; APPLICABILITY.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of enactment of this Act; and

(B) except as provided in paragraph (2), apply to any appointment to a position as a member of the Privacy and Civil Liberties Oversight Board made on or after the date of the enactment of this Act.

(2) EXCEPTIONS.—

(A) COMPENSATION CHANGES.—The amendments made by paragraphs (2)(A) and (3) of subsection (a) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(B) ELECTION TO SERVE FULL TIME BY INCUMBENTS.—

(i) IN GENERAL.—An individual serving as a member of the Privacy and Civil Liberties Oversight Board on the date of the enactment of this Act, including a member continuing to serve as a member under section 1061(h)(4)(B) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)), (in this subparagraph referred to as a “current member”) may make an election to—

(I) serve as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis and in accordance with section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee), as amended by this Act; or

(II) serve as a member of the Privacy and Civil Liberties Oversight Board on a part-time basis in accordance with such section 1061, as in effect on the day before the date of enactment of this Act, including the limitation on service after the expiration of the term of the member under subsection (h)(4)(B) of such section, as in effect on the day before the date of the enactment of this Act.

(ii) ELECTION TO SERVE FULL TIME.—A current member making an election under clause (i)(I) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes the election.

SEC. 907. PROVISION OF INFORMATION ABOUT GOVERNMENT ACTIVITIES UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

The Attorney General should fully inform the Privacy and Civil Liberties Oversight Board about any activities carried out by the Government under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), including by providing to the Board—

(1) copies of each detailed report submitted to a committee of Congress under such Act; and

(2) copies of each decision, order, and opinion of the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review required to be included in the report under section 601(a) of such Act (50 U.S.C. 1871(a)).

SA 1458. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. —. PROHIBITION ON DATA SECURITY VULNERABILITY MANDATES.

(a) IN GENERAL.—Except as provided in subsection (b), no agency may mandate that a manufacturer, developer, or seller of covered products design or alter the security functions in its product or service to allow

the surveillance of any user of such product or service, or to allow the physical search of such product, by any agency.

(b) EXCEPTION.—Subsection (a) shall not apply to mandates authorized under the Communications Assistance for Law Enforcement Act (47 U.S.C. 1001 et seq.).

(c) DEFINITIONS.—In this section—

(1) the term “agency” has the meaning given the term in section 3502 of title 44, United States Code; and

(2) the term “covered product” means any computer hardware, computer software, or electronic device that is made available to the general public.

SA 1459. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . CLARIFICATION ON PROHIBITION ON SEARCHING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS SEARCHES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

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

“(1) IN GENERAL.—An acquisition”; and

(3) by adding at the end the following:

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

“(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States may conduct a search of a collection of communications acquired under this section in an effort to find communications of a particular United States person (other than a corporation).

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

“(i) such United States person is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

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

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

SA 1460. Mr. PAUL (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 2048, 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; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Oversight and Surveillance Reform Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 101. End of government bulk collection of business records.

Sec. 102. Emergency authority for access to call data records.

Sec. 103. Challenges to government surveillance.

TITLE II—PRIVACY PROTECTIONS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES

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

TITLE III—PROCEDURES FOR TARGETING CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS

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

Sec. 302. Protection against collection of wholly domestic communications not concerning terrorism under FISA Amendments Act.

Sec. 303. Prohibition on reverse targeting under FISA Amendments Act.

Sec. 304. Limits on use of unlawfully obtained information under FISA Amendments Act.

Sec. 305. Challenges to Government surveillance.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

Sec. 401. Definitions.

Sec. 402. Office of the Constitutional Advocate.

Sec. 403. Advocacy before the FISA Court.

Sec. 404. Advocacy before the petition review pool.

Sec. 405. Appellate review.

Sec. 406. Disclosure.

Sec. 407. Annual report to Congress.

Sec. 408. Preservation of rights.

TITLE V—NATIONAL SECURITY LETTER REFORMS

Sec. 501. National security letter authority.

Sec. 502. Public reporting on National Security Letters.

TITLE VI—REPORTING FISA ORDERS AND NATIONAL SECURITY LETTERS

Sec. 601. Third-party reporting of FISA orders and National Security Letters.

Sec. 602. Government reporting of FISA orders.

TITLE VII—OTHER MATTERS

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

Sec. 702. Scope of liability protection for providing assistance to the Government.

TITLE I—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 101. END OF GOVERNMENT BULK COLLECTION OF BUSINESS RECORDS.

(a) PRIVACY PROTECTIONS FOR SECTION 215 BUSINESS RECORDS ORDERS.—

(1) IN GENERAL.—Section 501(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)) is amended—

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

(B) in paragraph (2), by striking subparagraphs (A) and (B) and inserting the following:

“(A) a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

“(i) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

“(ii) pertain to—

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

“(II) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

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

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

(C) by adding at the end the following:

“(3) if the applicant is seeking a nondisclosure requirement described in subsection (d), shall include—

“(A) a statement of specific and articulable facts providing reason to believe that disclosure of particular information about the existence or contents of the order requiring the production of tangible things under this section during the applicable time period will result in—

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

“(ii) flight from prosecution;

“(iii) destruction of or tampering with evidence;

“(iv) intimidation of potential witnesses;

“(v) interference with diplomatic relations; or

“(vi) otherwise seriously endangering the national security of the United States by alerting a target, an associate of a target, or the foreign power of which the target is an agent, of the interest of the Government in the target;

“(B) an explanation of how the harm identified under subparagraph (A) is related to the authorized investigation to which the tangible things sought are relevant;

“(C) an explanation of how the nondisclosure requirement is narrowly tailored to address the specific harm identified under subparagraph (A); and

“(D) the time period during which the Government believes the nondisclosure requirement should apply.”.

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

(A) in paragraph (1)—

(i) by striking “subsections (a) and (b),” and inserting “subsection (a) and paragraphs (1) and (2) of subsection (b) and that the proposed minimization procedures meet the definition of minimization procedures under subsection (g),”; and

(ii) by striking the last sentence and inserting the following: “If the judge finds that

the requirements of subsection (b)(3) have been met, such order shall include a nondisclosure requirement, which may apply for not longer than 1 year, unless the facts justify a longer period of nondisclosure, subject to the principles and procedures described in subsection (d)."; and

(B) in paragraph (2)—

(i) in subparagraph (C), by striking "(d);"; and inserting "(d, if applicable);";

(ii) in subparagraph (D), by striking "and" at the end;

(iii) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(F) shall direct that the minimization procedures be followed.".

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

"(d) NONDISCLOSURE.—

"(1) IN GENERAL.—No person who receives an order under subsection (c) that contains a nondisclosure requirement shall disclose to any person the particular information specified in the nondisclosure requirement during the time period to which the requirement applies.

"(2) EXCEPTION.—

"(A) DISCLOSURE.—A person who receives an order under subsection (c) that contains a nondisclosure requirement may disclose information otherwise subject to any applicable nondisclosure requirement to—

"(i) those persons to whom disclosure is necessary in order to comply with an order under this section;

"(ii) an attorney in order to obtain legal advice or assistance regarding the order; or

"(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

"(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom an order is directed under this section in the same manner as the person to whom the order is directed.

"(C) NOTIFICATION.—Any person who discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall notify the person of the applicable nondisclosure requirement.

"(3) EXTENSION.—The Director of the Federal Bureau of Investigation, or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge), may apply for renewals of the prohibition on disclosure of particular information about the existence or contents of an order requiring the production of tangible things under this section for additional periods of not longer than 1 year, unless the facts justify a longer period of nondisclosure. A nondisclosure requirement shall be renewed if a court having jurisdiction under paragraph (4) determines that the application meets the requirements of subsection (b)(3).

"(4) JURISDICTION.—An application for a renewal under this subsection shall be made to—

"(A) a judge of the court established under section 103(a); or

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

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

(A) in paragraph (1), by striking "Not later than" and all that follows and inserting "At or before the end of the period of time for the production of tangible things under an order approved under this section or at any time after the production of tangible things under an order approved under this section, a judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated."; and

(B) in paragraph (2)(A), by inserting "acquisition and" after "to minimize the".

(b) JUDICIAL REVIEW OF SECTION 215 ORDERS.—Section 501(f)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(f)(2)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking "that order" and inserting "such production order or any nondisclosure order imposed in connection with such production order"; and

(B) by striking the second sentence;

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

"(C) A judge considering a petition to modify or set aside a nondisclosure order shall grant such petition unless the court determines that—

"(i) there is reason to believe that disclosure of the information subject to the nondisclosure requirement during the applicable time period will result in—

"(I) endangering the life or physical safety of any person;

"(II) flight from prosecution;

"(III) destruction of or tampering with evidence;

"(IV) intimidation of potential witnesses;

"(V) interference with diplomatic relations; or

"(VI) otherwise seriously endangering the national security of the United States by alerting a target, an associate of a target, or the foreign power of which the target is an agent, of the interest of the Government in the target;

"(ii) the harm identified under clause (i) relates to the authorized investigation to which the tangible things sought are relevant; and

"(iii) the nondisclosure requirement is narrowly tailored to address the specific harm identified under clause (i)."; and

(3) by adding at the end the following new subparagraph:

"(E) If a judge denies a petition to modify or set aside a nondisclosure order under this paragraph, no person may file another petition to modify or set aside such nondisclosure order until the date that is one year after the date on which such judge issues the denial of such petition."

SEC. 102. EMERGENCY AUTHORITY FOR ACCESS TO CALL DATA RECORDS.

(a) IN GENERAL.—Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843) is amended by adding at the end the following:

"(e)(1) Notwithstanding any other provision of this subsection, the Attorney General may require the production of call data records by the provider of a wire or electronic communication service on an emergency basis if—

"(A) such records—

"(i) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with section 402 or 501, as appropriate, to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

"(ii) pertain to—

"(I) a foreign power or an agent of a foreign power;

"(II) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

"(III) an individual in contact with, or known to, a suspected agent of a foreign power;

"(B) the Attorney General reasonably determines—

"(i) an emergency requires the production of such records before an order requiring such production can with due diligence be obtained under section 402 or 501, as appropriate; and

"(ii) the factual basis for issuance of an order under section 402 or 501, as appropriate, to require the production of such records exists;

"(C) a judge referred to in section 402(b) or 501(b)(1), as appropriate, is informed by the Attorney General at the time of the required production of such records that the decision has been made to require such production on an emergency basis; and

"(D) an application in accordance with section 402 or 501, as appropriate, is made to such judge as soon as practicable, but not more than 7 days after the date on which the Attorney General requires the production of such records under this subsection.

"(2)(A) In the absence of an order issued under section 402 or 501, as appropriate, to approve the emergency required production of call data records under paragraph (1), the authority to require the production of such records shall terminate at the earlier of—

"(i) when the information sought is obtained;

"(ii) when the application for the order is denied under section 402 or 501, as appropriate; or

"(iii) 7 days after the time of the authorization by the Attorney General.

"(B) If an application for an order applied for under section 402 or 501, as appropriate, for the production of call data records required to be produced pursuant to paragraph (1) is denied, or in any other case where the emergency production of call data records under this section is terminated and no order under section 402 or 501, as appropriate, is issued approving the required production of such records, no information obtained or evidence derived from such records shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such records shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person."

(b) TERMINATION OF SECTION 501 REFERENCES.—On the date that section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177; 50 U.S.C. 1805 note) takes effect, subsection (e) of section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843), as added by paragraph (1), is amended—

(1) by striking "or section 501, as appropriate," each place that term appears;

(2) in paragraph (1)—

(A) in subparagraph (B), by striking "or 501, as appropriate;" and by inserting a semicolon; and

(B) in subparagraph (C), by striking "or 501(b)(1), as appropriate;" and

(3) in paragraph (2)(A)(ii), by striking "or 501, as appropriate;" and by inserting a semicolon.

SEC. 103. CHALLENGES TO GOVERNMENT SURVEILLANCE.

(a) IN GENERAL.—Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by adding at the end the following:

“SEC. 503. CHALLENGES TO ORDERS TO PRODUCE CERTAIN BUSINESS RECORDS.

“(a) APPEAL.—

“(1) IN GENERAL.—A person who is required to produce any tangible thing pursuant to an order issued under section 501 may appeal the order to a United States court of appeals on the basis that the order violates the Constitution of the United States.

“(2) VENUE.—An appeal filed pursuant to paragraph (1) may be filed—

“(A) in the United States court of appeals for a circuit embracing a judicial district in which venue would be proper for a civil action under section 1391 of title 28, United States Code; or

“(B) United States Court of Appeals for the District of Columbia.

“(b) SUPREME COURT REVIEW.—A person may seek a writ of certiorari from the Supreme Court of the United States for review of a decision of an appeal filed under subsection (a)(1).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 is amended by adding after the item relating to section 502 the following:

“Sec. 503. Challenges to orders to produce certain business records.”.

TITLE II—PRIVACY PROTECTIONS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES**SEC. 201. PRIVACY PROTECTIONS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES.**

(a) APPLICATION.—Section 402(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)) is amended—

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

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

“(2) a statement of facts showing that there are reasonable grounds to believe that the records sought—

“(A) are relevant to an authorized investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities (other than a threat assessment), provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution; and

“(B) pertain to—

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

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

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

“(3) a statement of proposed minimization procedures.”.

(b) MINIMIZATION.—

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

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

“(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the installation and use of a pen register or trap and trace device, to minimize the acquisition and retention, and prohibit the dissemination, of nonpub-

licly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

“(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1), shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance; and

“(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.”.

(2) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended—

(A) in subsection (d)—

(i) in paragraph (1), by inserting “, and that the proposed minimization procedures meet the definition of minimization procedures under this title” before the period at the end; and

(ii) in paragraph (2)(B)—

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

(II) by adding at the end the following:

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

(B) by adding at the end the following:

“(h) At or before the end of the period of time for which the installation and use of a pen register or trap and trace device is approved under an order or an extension under this section, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.”.

(3) EMERGENCIES.—Section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843), as amended by section 102(a), is further amended—

(A) by redesignating subsection (c) as (d); and

(B) by inserting after subsection (b) the following:

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

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

TITLE III—PROCEDURES FOR TARGETING CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS**SEC. 301. CLARIFICATION ON PROHIBITION ON SEARCHING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS SEARCHES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS.**

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting such subparagraphs, as so redesignated, an additional two ems from the left margin;

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

“(1) IN GENERAL.—An acquisition”; and

(3) by adding at the end the following:

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

“(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States may conduct a search of a collection of communications acquired under this section in an effort to find communications of a particular United States person (other than a corporation).

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

“(i) such United States person is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703, 704, or 705 of this Act, or under title 18, United States Code, for the effective period of that order;

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

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

SEC. 302. PROTECTION AGAINST COLLECTION OF WHOLLY DOMESTIC COMMUNICATIONS NOT CONCERNING TERRORISM UNDER FISA AMENDMENTS ACT.

(a) IN GENERAL.—Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) is amended—

(1) in subsection (d)(1)—

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

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

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

“(C) limit the acquisition of the contents of any communication to communications to which any party is a target of the acquisition or communications that refer to the target of the acquisition, if such communications are acquired to protect against international terrorism.”; and

(2) in subsection (i)(2)(B)—

(A) in clause (i), by striking “and” at the end;

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

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

“(iii) limit the acquisition of the contents of any communication to communications to which any party is a target of the acquisition or communications that refer to the target of the acquisition, if such communications are acquired to protect against international terrorism.”.

(b) CONFORMING AMENDMENT.—Section 701(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881(a)) is amended by inserting “‘international terrorism’,” after “‘foreign power’,”.

SEC. 303. PROHIBITION ON REVERSE TARGETING UNDER FISA AMENDMENTS ACT.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by sections 301 and 302 of this Act, is further amended—

(1) in paragraph (1)(B) of subsection (b), as redesignated by section 301, by striking “the purpose” and inserting “a significant purpose”; and

(2) in subsection (d)(1)(A)—

(A) by striking “ensure that” and inserting the following: “ensure—

“(i) that”; and

(B) by adding at the end the following:

“(ii) that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States; and”;

(3) in subsection (g)(2)(A)(i)(I)—

(A) by striking “ensure that” and inserting the following: “ensure—

“(aa) that”; and

(B) by adding at the end the following:

“(bb) that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States; and”;

(4) in subsection (i)(2)(B)(i)—

(A) by striking “ensure that” and inserting the following: “ensure—

“(I) that”; and

(B) by adding at the end the following:

“(II) that an application is filed under title I, if otherwise required, when a significant purpose of an acquisition authorized under subsection (a) is to acquire the communications of a particular, known person reasonably believed to be located in the United States; and”.

SEC. 304. LIMITS ON USE OF UNLAWFULLY OBTAINED INFORMATION UNDER FISA AMENDMENTS ACT.

Section 702(i)(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(i)(3)) is amended by striking subparagraph (B) and inserting the following:

“(B) CORRECTION OF DEFICIENCIES.—

“(i) IN GENERAL.—If the Court finds that a certification required by subsection (g) does not contain all of the required elements, or that the procedures required by subsections (d) and (e) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government's election and to the extent required by the order of the Court—

“(I) correct any deficiency identified by the order of the Court not later than 30 days after the date on which the Court issues the order; or

“(II) cease, or not begin, the implementation of the authorization for which such certification was submitted.

“(ii) LIMITATION ON USE OF INFORMATION.—

“(I) IN GENERAL.—Except as provided in subclause (II), no information obtained or evidence derived from an acquisition pursuant to a certification or targeting or minimization procedures subject to an order under clause (i) concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the acquisition shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of the United States person, except with the approval of the Attorney General if the information 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 clause (i), the Court may permit the use or disclosure of information acquired before the date of the correction under such minimization procedures as the

Court shall establish for purposes of this clause.”.

SEC. 305. CHALLENGES TO GOVERNMENT SURVEILLANCE.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by this title, is further amended by adding at the end the following new subsection:

“(m) CHALLENGES TO GOVERNMENT SURVEILLANCE.—

“(1) INJURY IN FACT.—In any claim in a civil action brought in a court of the United States relating to surveillance conducted under this section, the person asserting the claim has suffered an injury in fact if the person—

“(A) has a reasonable basis to believe that the person's communications will be acquired under this section; and

“(B) has taken objectively reasonable steps to avoid surveillance under this section.

“(2) REASONABLE BASIS.—A person shall be presumed to have demonstrated a reasonable basis to believe that the communications of the person will be acquired under this section if the profession of the person requires the person regularly to communicate foreign intelligence information with persons who—

“(A) are not United States persons; and

“(B) are located outside the United States.

“(3) OBJECTIVE STEPS.—A person shall be presumed to have taken objectively reasonable steps to avoid surveillance under this section if the person demonstrates that the steps were taken in reasonable response to rules of professional conduct or analogous professional rules.”.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

SEC. 401. DEFINITIONS.

In this title:

(1) CONSTITUTIONAL ADVOCATE.—The term “Constitutional Advocate” means the Constitutional Advocate appointed under section 402(b).

(2) DECISION.—The term “decision” means a decision, order, or opinion issued by the FISA Court or the FISA Court of Review.

(3) FISA.—The term “FISA” means the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(4) FISA COURT.—The term “FISA Court” means the court established under section 103(a) of FISA (50 U.S.C. 1803(a)).

(5) FISA COURT OF REVIEW.—The term “FISA Court of Review” means the court of review established under section 103(b) of FISA (50 U.S.C. 1803(b)).

(6) OFFICE.—The term “Office” means the Office of the Constitutional Advocate established under section 402(a).

(7) PETITION REVIEW POOL.—The term “petition review pool” means the petition review pool established by section 103(e) of FISA (50 U.S.C. 1803(e)) or any member of that pool.

(8) SIGNIFICANT CONSTRUCTION OR INTERPRETATION OF LAW.—The term “significant construction or interpretation of law” means a significant construction or interpretation of a provision, as that term is construed under section 601(c) of FISA (50 U.S.C. 1871(c)).

SEC. 402. OFFICE OF THE CONSTITUTIONAL ADVOCATE.

(a) ESTABLISHMENT.—There is established within the judicial branch of the United States an Office of the Constitutional Advocate.

(b) CONSTITUTIONAL ADVOCATE.—

(1) IN GENERAL.—The head of the Office is the Constitutional Advocate.

(2) APPOINTMENT AND TERM.—

(A) APPOINTMENT.—The Chief Justice of the United States shall appoint the Constitutional Advocate from the list of candidates submitted under subparagraph (B).

(B) CANDIDATES.—

(i) LIST OF CANDIDATES.—The Privacy and Civil Liberties Oversight Board shall submit to the Chief Justice a list of not less than 5 qualified candidates to serve as a Constitutional Advocate.

(ii) SELECTION OF CANDIDATES.—In preparing a list described in clause (i), the Privacy and Civil Liberties Oversight Board shall select candidates the Board believes will be zealous and effective advocates in defense of civil liberties and consider each potential candidate's—

(I) litigation and other professional experience;

(II) experience with the areas of law the Constitutional Advocate is likely to encounter in the course of the Advocate's duties; and

(III) demonstrated commitment to civil liberties.

(C) SECURITY CLEARANCE.—An individual may be appointed Constitutional Advocate without regard to whether the individual possesses a security clearance on the date of the appointment.

(D) TERM AND DISMISSAL.—A Constitutional Advocate shall be appointed for a term of 3 years and may be fired only for good cause shown, including the demonstrated inability to qualify for an adequate security clearance.

(E) REAPPOINTMENT.—There shall be no limit to the number of consecutive terms served by a Constitutional Advocate. The reappointment of a Constitutional Advocate shall be made in the same manner as appointment of a Constitutional Advocate.

(F) ACTING CONSTITUTIONAL ADVOCATE.—If the position of Constitutional Advocate is vacant, the Chief Justice may appoint an Acting Constitutional Advocate from among the qualified employees of the Office. If there are no such qualified employees, the Chief Justice may appoint an Acting Constitutional Advocate from the most recent list of candidates provided by the Privacy and Civil Liberties Oversight Board pursuant to subparagraph (B). The Acting Constitutional Advocate shall have all of the powers of a Constitutional Advocate and shall serve until a Constitutional Advocate is appointed.

(3) EMPLOYEES.—The Constitutional Advocate is authorized, without regard to the civil service laws and regulations, to appoint and terminate employees of the Office.

(c) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Office, to the extent possible under existing procedures and requirements, to expeditiously provide the Constitutional Advocate and appropriate employees of the Office with the security clearances necessary to carry out the duties of the Constitutional Advocate.

(d) DUTIES AND AUTHORITIES OF THE CONSTITUTIONAL ADVOCATE.—

(1) IN GENERAL.—The Constitutional Advocate—

(A) shall review each application to the FISA Court by the Attorney General;

(B) shall review each decision of the FISA Court, the petition review pool, or the FISA Court of Review issued after the date of the enactment of this Act and all documents and other material relevant to such decision in a complete, unredacted form;

(C) may participate in a proceeding before the petition review pool if such participation is requested by a party in such a proceeding or by the petition review pool;

(D) shall consider any request from a provider who has been served with an order, certification, or directive compelling the provider to provide assistance to the Government or to release customer information to assist that provider in a proceeding before

the FISA Court or the petition review pool, including a request—

(i) to oppose the Government on behalf of the private party in such a proceeding; or

(ii) to provide guidance to the private party if the private party is considering compliance with an order of the FISA Court;

(E) shall participate in a proceeding before the FISA Court if appointed to participate by the FISA Court under section 403(a) and may participate in a proceeding before the petition review pool if authorized under section 404(a);

(F) may request to participate in a proceeding before the FISA Court or the petition review pool;

(G) shall participate in such a proceeding if such request is granted;

(H) may request reconsideration of a decision of the FISA Court under section 403(b);

(I) may appeal or seek review of a decision of the FISA Court, the petition review pool, or the FISA Court of Review, as permitted by this title; and

(J) shall participate in such appeal or review.

(2) **ADVOCACY.**—The Constitutional Advocate shall protect individual rights by vigorously advocating before the FISA Court, the petition review pool, or the FISA Court of Review, as appropriate, in support of legal interpretations that minimize the scope of surveillance and the extent of data collection and retention.

(3) **UTILIZATION OF OUTSIDE COUNSEL.**—The Constitutional Advocate—

(A) may delegate to a competent outside counsel any duty or responsibility of the Constitutional Advocate with respect to participation in a matter before the FISA Court, the FISA Court of Review, or the Supreme Court of the United States; and

(B) may not delegate to outside counsel any duty or authority set out in subparagraph (A), (B), (D), (F), (H), or (I) of paragraph (1).

(4) **AVAILABILITY OF DOCUMENTS AND MATERIAL.**—The FISA Court, the petition review pool, or the FISA Court of Review, as appropriate, shall order any agency, department, or entity to make available to the Constitutional Advocate, or appropriate outside counsel if utilized by the Constitutional Advocate under paragraph (3), any documents or other material necessary to carry out the duties described in paragraph (1).

SEC. 403. ADVOCACY BEFORE THE FISA COURT.

(a) **APPOINTMENT TO PARTICIPATE.**—

(1) **IN GENERAL.**—The FISA Court may appoint the Constitutional Advocate to participate in a FISA Court proceeding.

(2) **STANDING.**—If the Constitutional Advocate is appointed to participate in a FISA Court proceeding pursuant to paragraph (1), the Constitutional Advocate shall have standing as a party before the FISA Court in that proceeding.

(b) **RECONSIDERATION OF A FISA COURT DECISION.**—

(1) **AUTHORITY TO MOVE FOR RECONSIDERATION.**—The Constitutional Advocate may move the FISA Court to reconsider any decision of the FISA Court made after the date of the enactment of this Act by petitioning the FISA Court not later than 30 days after the date on which all documents and materials relevant to the decision are made available to the Constitutional Advocate.

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

(c) **AMICUS CURIAE PARTICIPATION.**—

(1) **MOTION BY THE CONSTITUTIONAL ADVOCATE.**—The Constitutional Advocate may file a motion with the FISA Court to permit and facilitate participation of amicus curiae, in-

cluding participation in oral argument if appropriate, in any proceeding. The FISA Court shall have the discretion to grant or deny such a motion.

(2) **FACILITATION BY THE FISA COURT.**—The FISA Court may, sua sponte, permit and facilitate participation by amicus curiae, including participation in oral argument if appropriate, in proceedings before the FISA Court.

(3) **REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the FISA Court shall promulgate rules to provide the public with information sufficient to allow interested parties to participate as amicus curiae.

SEC. 404. ADVOCACY BEFORE THE PETITION REVIEW POOL.

(a) **AUTHORITY TO PARTICIPATE.**—The petition review pool or any party to a proceeding before the petition review pool may authorize the Constitutional Advocate to participate in a petition review pool proceeding.

(b) **RECONSIDERATION OF A PETITION REVIEW POOL DECISION.**—

(1) **AUTHORITY TO MOVE FOR RECONSIDERATION.**—The Constitutional Advocate may move the petition review pool to reconsider any decision of the petition review pool made after the date of the enactment of this Act by petitioning the petition review pool not later than 30 days after the date on which all documents and materials relevant to the decision are made available to the Constitutional Advocate.

(2) **DISCRETION OF THE PETITION REVIEW POOL.**—The petition review pool shall have discretion to grant or deny a motion for reconsideration made pursuant to paragraph (1).

(c) **AMICUS CURIAE PARTICIPATION.**—

(1) **MOTION BY THE CONSTITUTIONAL ADVOCATE.**—The Constitutional Advocate may file a motion with the petition review pool to permit and facilitate participation of amicus curiae, including participation in oral argument if appropriate, in any proceeding. The petition review pool shall have the discretion to grant or deny such a motion.

(2) **FACILITATION BY THE FISA COURT.**—The petition review pool may, sua sponte, permit and facilitate participation by amicus curiae, including participation in oral argument if appropriate, in proceedings before the petition review pool.

(3) **REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the petition review pool shall promulgate rules to provide the public with information sufficient to allow interested parties to participate as amicus curiae.

SEC. 405. APPELLATE REVIEW.

(a) **APPEAL OF FISA COURT DECISIONS.**—

(1) **AUTHORITY TO APPEAL.**—The Constitutional Advocate may appeal any decision of the FISA Court or the petition review pool issued after the date of the enactment of this Act not later than 90 days after the date the decision is issued, unless it would be apparent to all reasonable jurists that such decision is dictated by statute or by precedent handed down after such date of enactment.

(2) **STANDING AS APPELLANT.**—If the Constitutional Advocate appeals a decision of the FISA Court or the petition review pool pursuant to paragraph (1), the Constitutional Advocate shall have standing as a party before the FISA Court of Review in such appeal.

(3) **MANDATORY REVIEW.**—The FISA Court of Review shall review any FISA Court or petition review pool decision appealed by the Constitutional Advocate and issue a decision in such appeal.

(4) **STANDARD OF REVIEW.**—The standards for a mandatory review of a FISA Court or petition review pool decision pursuant to paragraph (3) shall be—

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

(B) clearly erroneous with respect to determination of facts.

(5) **AMICUS CURIAE PARTICIPATION.**—

(A) **IN GENERAL.**—The FISA Court of Review shall accept amicus curiae briefs from interested parties in all mandatory reviews pursuant to paragraph (3) and shall provide for amicus curiae participation in oral argument if appropriate.

(B) **REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the FISA Court of Review shall promulgate rules to provide the public with information sufficient to allow interested parties to participate as amicus curiae.

(b) **REVIEW OF FISA COURT OF REVIEW DECISIONS.**—

(1) **AUTHORITY.**—The Constitutional Advocate may seek a writ of certiorari from the Supreme Court of the United States for review of any decision of the FISA Court of Review.

(2) **STANDING.**—In any proceedings before the Supreme Court of the United States relating to a petition of certiorari filed under paragraph (1) and any proceedings in a matter for which certiorari is granted, the Constitutional Advocate shall have standing as a party.

SEC. 406. DISCLOSURE.

(a) **REQUIREMENT TO DISCLOSE.**—The Attorney General shall publicly disclose—

(1) all decisions issued by the FISA Court, the petition review pool, or the FISA Court of Review after July 10, 2003, that include a significant construction or interpretation of law;

(2) any decision of the FISA Court or the petition review pool appealed by the Constitutional Advocate pursuant to this title; and

(3) any FISA Court of Review decision that is issued after an appeal by the Constitutional Advocate.

(b) **DISCLOSURE DESCRIBED.**—For each disclosure required by subsection (a) with respect to a decision, the Attorney General shall make available to the public documents sufficient—

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

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

(3) to describe the construction or interpretation of any statute, constitutional provision, or other legal authority relied on by the decision; and

(4) to indicate whether the decision departed from any prior decision of the FISA Court, the petition review pool, or the FISA Court of Review.

(c) **DOCUMENTS DESCRIBED.**—The Attorney General shall satisfy the disclosure requirements in subsection (b) by—

(1) releasing a FISA Court, petition review pool, or FISA Court of Review decision in its entirety or as redacted;

(2) releasing a summary of a FISA Court, petition review pool, or FISA Court of Review decision; or

(3) releasing an application made to the FISA Court, a petition made to the petition review pool, briefs filed before the FISA Court, the petition review pool, or the FISA Court of Review, or other materials, in full or as redacted.

(d) **EXTENSIVE DISCLOSURE.**—The Attorney General shall release as much information regarding the facts and analysis contained in a decision described in subsection (a) or documents described in subsection (c) as is consistent with legitimate national security concerns.

(e) **TIMING OF DISCLOSURE.**—

(1) DECISIONS ISSUED PRIOR TO ENACTMENT.—A decision issued prior to the date of the enactment of this Act that is required to be disclosed under subsection (a)(1) shall be disclosed not later than 180 days after the date of the enactment of this Act.

(2) FISA COURT AND PETITION REVIEW POOL DECISIONS.—The Attorney General shall release FISA Court or petition review pool decisions appealed by the Constitutional Advocate not later than 30 days after the date the appeal is filed.

(3) FISA COURT OF REVIEW DECISIONS.—The Attorney General shall release FISA Court of Review decisions appealed by the Constitutional Advocate not later than 90 days after the date the appeal is filed.

(f) PETITION BY THE CONSTITUTIONAL ADVOCATE.—

(1) AUTHORITY TO PETITION.—The Constitutional Advocate may petition the FISA Court, the petition review pool, or the FISA Court of Review to order—

(A) the public disclosure of a decision of such a Court or review pool, and documents or other material relevant to such a decision, previously designated as classified information; or

(B) the release of an unclassified summary of such decisions and documents.

(2) CONTENTS OF PETITION.—Each petition filed under paragraph (1) shall contain a detailed declassification proposal or a summary of the decision and documents that the Constitutional Advocate proposes to have released publicly.

(3) ROLE OF THE ATTORNEY GENERAL.—

(A) COPY OF PETITION.—The Constitutional Advocate shall provide to the Attorney General a copy of each petition filed under paragraph (1).

(B) OPPOSITION.—The Attorney General may oppose a petition filed under paragraph (1) by submitting any objections in writing to the FISA Court, the petition review pool, or the FISA Court of Review, as appropriate, not later than 90 days after the date such petition was submitted.

(4) PUBLIC AVAILABILITY.—Not less than 91 days after receiving a petition under paragraph (1), and taking into account any objections from the Attorney General made under paragraph (3)(B), the FISA Court, the petition review pool, or the FISA Court of Review, as appropriate, shall declassify and make readily available to the public any decision, document, or other material requested in such petition, to the greatest extent possible, consistent with legitimate national security considerations.

(5) EFFECTIVE DATE.—The Constitutional Advocate may not file a petition under paragraph (1) until 181 days after the date of the enactment of this Act, except with respect to a decision appealed by the Constitutional Advocate.

SEC. 407. ANNUAL REPORT TO CONGRESS.

(a) REQUIREMENT FOR ANNUAL REPORT.—The Constitutional Advocate shall submit to Congress an annual report on the implementation of this title.

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

(1) detail the activities of the Office;

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

(3) propose any new legislation to improve the functioning of the Office or the operation of the FISA Court, the petition review pool, or the FISA Court of Review.

SEC. 408. PRESERVATION OF RIGHTS.

Nothing in this title shall be construed—

(1) to provide the Attorney General with authority to prevent the FISA Court, the petition review pool, or the FISA Court of Review from declassifying decisions or releasing information pursuant to this title; and

(2) to eliminate the public's ability to secure information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act") or any other provision of law.

TITLE V—NATIONAL SECURITY LETTER REFORMS

SEC. 501. NATIONAL SECURITY LETTER AUTHORITY.

(a) NATIONAL SECURITY LETTER AUTHORITY FOR COMMUNICATIONS SUBSCRIBER RECORDS.—

(1) IN GENERAL.—Section 2709(b) of title 18, United States Code, is amended by amending paragraphs (1) and (2) to read as follows:

"(1) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and

"(B) there are specific and articulable facts showing that there are reasonable grounds to believe that the name, address, length of service, and toll billing records sought—

"(i) pertain to a foreign power or agent of a foreign power;

"(ii) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

"(iii) pertain to an individual in contact with, or known to, a suspected agent; and

"(2) request the name, address, and length of service of a person or entity if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

"(B) there are specific and articulable facts showing that there are reasonable grounds to believe that the information sought pertains to—

"(i) a foreign power or agent of a foreign power;

"(ii) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

"(iii) an individual in contact with, or known to, a suspected agent."

(b) NATIONAL SECURITY LETTER AUTHORITY FOR CERTAIN FINANCIAL RECORDS.—Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414) is amended to read as follows:

"SEC. 1114. NATIONAL SECURITY LETTER FOR CERTAIN FINANCIAL RECORDS.

"(a) AUTHORIZATION.—

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

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

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

"(C) the length of time during which a person has been, or was, a customer of the financial institution (including the start date) and the type of service provided by the institution to the customer; and

"(D) any account number or other unique identifier associated with a customer of the financial institution.

"(2) LIMITATION.—A National Security Letter issued under this subsection may not require the production of records or information not listed in paragraph (1).

"(b) NATIONAL SECURITY LETTER REQUIREMENTS.—

"(1) IN GENERAL.—A National Security Letter issued under subsection (a) shall—

"(A) be subject to the requirements of subsections (b) through (f) of section 2709 of title 18, United States Code, in the same manner and to the same extent as those provisions apply with respect to a request under section 2709(b) of title 18, United States Code, to a wire or electronic communication service provider;

"(B)(i) in the case of a National Security Letter issued by the Director of the Federal Bureau of Investigation or the Director's designee, include a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

"(I) are relevant to an authorized investigation (other than a threat assessment) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

"(II) pertain to—

"(aa) a foreign power or an agent of a foreign power;

"(bb) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

"(cc) an individual in contact with, or known to, a suspected agent of a foreign power; and

"(ii) in the case of a National Security Letter issued by the Director of the United States Secret Service, include a statement of facts showing that there are reasonable grounds to believe that the records or other things sought are relevant to the conduct of the protective functions of the United States Secret Service.

"(2) REPORTING.—On a semiannual basis the Director of the Federal Bureau of Investigation and the Director of the United States Secret Service shall fully inform the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives, concerning all requests made under subsection (a).

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'agent of a foreign power', 'international terrorism', 'foreign intelligence information', and 'United States person' have the same meanings as in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) DEFINITION OF 'FINANCIAL INSTITUTION'.—For purposes of this section (and sections 1115 and 1117, insofar as the sections relate to the operation of this section), the term 'financial institution' has the same meaning as in subsections (a)(2) and (c)(1) of section 5312 of title 31, United States Code, except that the term shall include only a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands."

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

(1) IN GENERAL.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended—

(A) by striking the section heading and inserting the following:

“§ 626. National Security Letters for certain consumer report records”;

(B) by striking subsections (a) through (d) and inserting the following:

“(a) AUTHORIZATION.—

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

“(A) the name of a consumer;

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

“(C) the current and former places of employment of a consumer; and

“(D) the name and address of any financial institution (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401)) at which a consumer maintains or has maintained an account, to the extent that the information is in the files of the consumer reporting agency.

“(2) LIMITATION.—A National Security Letter issued under this subsection may not require the production of a consumer report.

“(b) NATIONAL SECURITY LETTER REQUIREMENTS.—

“(1) IN GENERAL.—A National Security Letter issued under subsection (a) shall—

“(A) be subject to the requirements of subsections (b) through (f) of section 2709 of title 18, United States Code, in the same manner and to the same extent as those provisions apply with respect to a request under section 2709(b) of title 18, United States Code, to a wire or electronic communication service provider; and

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

“(i) are relevant to an authorized investigation (other than a threat assessment) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

“(ii) pertain to—

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

“(II) the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

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

“(2) REPORTING.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives, concerning all requests made under subsection (a).

“(3) DEFINITIONS.—For purposes of this subsection, the terms ‘agent of a foreign power’, ‘international terrorism’, ‘foreign intelligence information’, and ‘United States person’ have the same meanings as in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).”;

(C) by striking subsections (f) through (h); and

(D) by redesignating subsections (e) and (i) through (m) as subsections (c) through (h), respectively.

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

(d) TECHNICAL AND CONFORMING AMENDMENT.—

(1) TABLE OF SECTIONS AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by striking the items relating to sections 626 and 627 and inserting the following:

“626. National Security Letters for certain consumer report records.

“627. [Repealed].”.

(2) CONFORMING AMENDMENTS.—

(A) NOTICE REQUIREMENTS.—Section 1109 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409) is amended by striking subsection (c).

(B) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended—

(i) in section 1510(e), by striking “section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)),” and inserting “section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u), section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414);” and

(ii) in section 3511—

(I) by striking “section 1114(a)(5)(A) of the Right to Financial Privacy Act,” each place that term appears and inserting “section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414);” and

(II) by striking “or section 627(a)” each place that term appears.

(C) NATIONAL SECURITY ACT OF 1947.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 3106(b)) is amended—

(i) in paragraph (2), by striking “section 626(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).” and inserting “section 626(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(b)(2)).”; and

(ii) in paragraph (3), by striking “section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).” and inserting “section 1114(b)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(b)(2)).”.

(D) USA PATRIOT ACT.—

(i) SECTION 118.—Section 118 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 18 U.S.C. 3511 note) is amended—

(I) in subsection (c)(1)—

(aa) in subparagraph (C), by inserting “and” at the end;

(bb) in subparagraph (D), by striking “; and” and inserting a period; and

(cc) by striking subparagraph (E); and

(II) in subsection (d)—

(aa) in paragraph (2), by striking “Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A))” and inserting “Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414);” and

(bb) by striking paragraph (5).

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

(I) in paragraph (2), by striking “Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A))” and inserting “Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414);” and

(II) by striking paragraph (5).

SEC. 502. PUBLIC REPORTING ON NATIONAL SECURITY LETTERS.

Section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 18 U.S.C. 3511 note), as

amended by section 501(d)(2)(D)(i), is further amended—

(1) in paragraph (1)—

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

(B) in subparagraph (A), by striking “, excluding the number of requests for subscriber information”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) CONTENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each report required under this subsection shall include the total number of requests described in paragraph (1) requiring disclosure of information concerning—

“(i) United States persons;

“(ii) persons who are not United States persons;

“(iii) persons who are the subjects of authorized national security investigations; or

“(iv) persons who are not the subjects of authorized national security investigations.

“(B) EXCEPTION.—With respect to the number of requests for subscriber information under section 2709 of title 18, United States Code, a report required under this subsection need not provide information separated into each of the categories described in subparagraph (A).”.

TITLE VI—REPORTING FISA ORDERS AND NATIONAL SECURITY LETTERS

SEC. 601. THIRD-PARTY REPORTING OF FISA ORDERS AND NATIONAL SECURITY LETTERS.

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

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

(1) ESTIMATE OF NUMBERS OF DEMANDS AND REQUESTS MADE.—The report may reveal an estimate of the number of such demands and requests made during the period to which the report pertains.

(2) ESTIMATE OF NUMBERS OF DEMANDS AND REQUESTS COMPLIED WITH.—The report may reveal an estimate of the numbers of such demands and requests the service provider complied with during the period to which the report pertains, regardless of when the demands or requests were made.

(3) ESTIMATE OF NUMBER OF USERS OR ACCOUNTS.—The report may reveal an estimate of the numbers of users or accounts, or both, of the service provider, for which information was demanded, requested, or provided during the period to which the report pertains.

(c) SPECIAL RULES FOR REPORTS.—

(1) LEVEL OF DETAIL BY AUTHORIZING SURVEILLANCE LAW.—Any estimate disclosed under this section may be an overall estimate or broken down by categories of authorizing surveillance laws or by provisions of authorizing surveillance laws.

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

(3) REPORT MAY BE BROKEN DOWN BY PERIODS NOT LESS THAN CALENDAR QUARTERS.—For any reporting period, the provider may break

down the report by calendar quarters or any other time periods greater than a calendar quarter.

(d) **LIMITATION ON LIABILITY.**—An electronic service provider making a report that the provider reasonably believes in good faith is authorized by this section is not criminally or civilly liable in any court for making that report.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit disclosures other than those authorized by this section.

(f) **DEFINITIONS.**—In this section:

(1) The term “electronic service provider” means a provider of an electronic communications service (as that term is defined in section 2510 of title 18, United States Code) or a provider of a remote computing service (as that term is defined in section 2711 of title 18, United States Code).

(2) The term “surveillance law” means any provision of any of the following:

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

(B) Section 802(a) of the National Security Act of 1947 (50 U.S.C. 3162(a)).

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

(D) Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414).

(E) Subsections (a) or (b) of section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u).

SEC. 602. GOVERNMENT REPORTING OF FISA ORDERS.

(a) **ELECTRONIC SURVEILLANCE.**—Section 107 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1807) is amended—

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

(2) in the matter preceding paragraph (1) (as redesignated by paragraph (1) of this subsection)—

(A) by striking “In April” and inserting “(a) In April”; and

(B) by striking “Congress” and inserting “the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives”;

(3) in subsection (a) (as designated by paragraph (2) of this subsection)—

(A) in paragraph (1) (as redesignated by paragraph (1) of this subsection), by striking “and” at the end;

(B) in paragraph (2) (as so redesignated), by striking the period at the end and inserting a semicolon; and

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

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

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

(4) by adding at the end the following new subsection:

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

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

(b) **PEN REGISTER AND TRAP AND TRACE DEVICES.**—Section 406 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846) is amended—

(1) in subsection (b)—

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

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

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

“(4) a good faith estimate of the total number of individuals whose electronic or wire communications information was obtained through the use of pen register or trap and trace devices authorized under an order entered under this title, rounded to the nearest 100; and

“(5) a good faith estimate of the total number of United States persons whose electronic or wire communications information was obtained through the use of a pen register or trap and trace devices authorized under an order entered under this title, rounded to the nearest 100.”; and

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

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

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

(c) **ACCESS TO CERTAIN BUSINESS RECORDS.**—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—

(1) in subsection (b)(3), by adding at the end the following new subparagraphs:

“(F) Records concerning electronic communications.

“(G) Records concerning wire communications.”; and

(2) in subsection (c)—

(A) in paragraph (1)—

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

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

(iii) by adding at the end the following new subparagraphs:

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

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

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

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

(d) **ADDITIONAL PROCEDURES REGARDING CERTAIN PERSONS OUTSIDE THE UNITED STATES.**—Section 707 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881f) is amended by adding at the end the following new subsection:

“(c) **ADDITIONAL ANNUAL REPORT.**—

(1) **REPORT REQUIRED.**—In April of each year, the Attorney General shall submit to the congressional intelligence committees and the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding year—

“(A) the total number of—

“(i) directives issued under section 702;

“(ii) orders granted under section 703; and

“(iii) orders granted under section 704;

“(B) good faith estimates of the total number of individuals, rounded to the nearest 100, whose electronic or wire communications or communications records were collected pursuant to—

“(i) an order granted under section 703; and

“(ii) an order granted under section 704; and

“(C) good faith estimates of the total number, rounded to the nearest 100, of United States persons whose electronic or wire com-

munications or communications records were collected pursuant to—

“(i) an order granted under section 703; and

“(ii) an order granted under section 704.

“(2) **FORM.**—Each report required under paragraph (1) shall be submitted in unclassified form.

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

TITLE VII—OTHER MATTERS

SEC. 701. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA AUTHORITY.

Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended—

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

(2) by striking paragraph (2); and

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

SEC. 702. SCOPE OF LIABILITY PROTECTION FOR PROVIDING ASSISTANCE TO THE GOVERNMENT.

Section 802 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1885a) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “and except as provided in subsection (j),” after “law.”; and

(2) by adding at the end the following:

“(j) **VIOLATION OF USER AGREEMENTS.**—Subsection (a) shall not apply to assistance provided by a person if the provision of assistance violates a user agreement, including any privacy policy associated with the user agreement, in effect at the time the assistance is provided between the person and the person relating to whom the assistance was provided.”.

SA 1461. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In section 113(b), strike “The Secretary shall” and insert “Not later than 90 days after the date of the enactment of this Act, the Secretary shall”.

SA 1462. Mr. McCAIN submitted an amendment intended to be proposed by him to the bill H.R. 1735, to authorize appropriations for fiscal year 2016 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In section 112(b), strike “The Secretary shall” and insert “Not later than 90 days after the date of the enactment of this Act, the Secretary shall”.

ORDERS FOR TUESDAY, JUNE 2, 2015

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it