be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1895. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1896. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

SA 1897. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

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SA 1902. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1875. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike line 1 and all that follows through page 7, line 16, and insert the following:

''(2) REQUIREMENTS FOR ACCESS AND DISSEMINATION OF COLLECTIONS OF COMMUNICATIONS.—

''(A) COURT ORDERS.—

''(i) IN GENERAL.—Except as provided under subparagraph (C), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the contents of queried communications acquired under subsection (a) may be accessed or disseminated only if—

''(I) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that—

''(aa) there is probable cause to believe that—

''(AA) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(BB) the individual is an agent of a foreign power; and

''(bb) any use of such communications pursuant to section 706 will be carried out in accordance with such section; and

''(II) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application under clause (ii).

''(ii) ORDER.—

''(I) APPROVAL.—Upon an application made under clause (i), the Foreign Intelligence Surveillance Court shall enter an order as requested or as modified by the Court approving the access or dissemination of contents of communications covered by the application if the Court determines that, based on an independent review—

''(aa) the application contains all information required under clause (i);

''(bb) on the basis of the facts in the application, there is probable cause to believe that—

''(AA) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(BB) the person identified by the queried term is an agent of a foreign power; and

''(cc) the minimization procedures adopted pursuant to subsection (e) will ensure compliance with clause (i)(I)(bb).

''(II) REVIEW.—A denial of an application submitted under clause (i) may be reviewed as provided in section 103.

''(B) EXPEDITIOUS CONSIDERATION.—Any application submitted under subparagraph (A)(i) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(C) EXCEPTIONS.—The requirement for an order pursuant to subparagraph (A) shall not apply to accessing or disseminating communications acquired under subsection (a) if—

''(i) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(ii) the Attorney General—

''(I) reasonably determines that an emergency situation requires the accessing or dissemination of the communications before an order pursuant to subparagraph (A) authorizing such access or dissemination can with due diligence be obtained;

''(II) reasonably believes that the factual basis for the issuance of such an order exists; and

''(III) with respect to the access or dissemination of the contents of such communications—

''(aa) informs the Court at the time the Attorney General requires the emergency access or dissemination that the decision has been made to employ the authority under this clause; and

''(bb) may not use the contents of such communications pursuant to section 706 if the Court finds that the determination by the Attorney General with respect to the emergency situation was not appropriate; or

''(iii) there is consent provided in accordance with subparagraph (D).

''(D) CONSENT.—The requirements of this paragraph do not apply with respect to—

''(i) queries made using a term identifying a person who is a party to the communications acquired under subsection (a), or a person who otherwise has lawful authority to provide consent, and who consents to such queries; or

''(ii) the accessing or the dissemination of the contents or information of communications acquired under subsection (a) of a person who is a party to the communications, or a person who otherwise has lawful authority to provide consent, and who consents to such access or dissemination.

SA 1876. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Uniting and Strengthening American Liberty Act of 2017'' or the ''USA Liberty Act of 2017''.

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

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

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE AND ACCOUNTABILITY

Sec. 101. Court orders and protection of incidentally collected United States person communications.
Sec. 102. Attorney General approval and additional protection of incidentally collected United States person communications.
Sec. 103. Limitation on collection and improvements to targeting procedures and minimization procedures.
Sec. 104. Publication of minimization procedures under section 702.
Sec. 105. Appointment of amicus curiae for annual certifications.
Sec. 106. Increased accountability on incidentally collected communications.
Sec. 107. Semiannual reports on certain queries by Federal Bureau of Investigation.
Sec. 108. Additional reporting requirements.
Sec. 109. Application of certain amendments.
Sec. 110. Sense of Congress on purpose of section 702 and respecting foreign nationals.

TITLE II—SAFEGUARDS AND OVERSIGHT OF PRIVACY AND CIVIL LIBERTIES

Sec. 201. Limitation on retention of certain data.
Sec. 202. Improvements to Privacy and Civil Liberties Oversight Board.
Sec. 203. Privacy and civil liberties officers.
Sec. 204. Whistleblower protections for contractors of the intelligence community.

TITLE III—EXTENSION OF AUTHORITIES, INCREASED PENALTIES, REPORTS, AND OTHER MATTERS

Sec. 301. Extension of title VII of FISA; effective dates.
Sec. 302. Increased penalty for unauthorized removal and retention of classified documents or material.
Sec. 303. Rule of construction regarding criminal penalties for unauthorized use of information acquired under section 702 and unauthorized disclosure of United States person information.
Sec. 304. Comptroller General study on unauthorized disclosures and the classification system.
Sec. 305. Sense of Congress on information sharing among intelligence community to protect national security.
Sec. 306. Sense of Congress on combating terrorism.
Sec. 307. Technical amendments and amendments to improve procedures of the Foreign Intelligence Surveillance Court of Review.

Sec. 308. Severability.
Sec. 309. Rule of construction.
SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

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

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE AND ACCOUNTABILITY

SEC. 101. COURT ORDERS AND PROTECTION OF INCIDENTALLY COLLECTED UNITED STATES PERSON COMMUNICATIONS.

(a) IN GENERAL.—Section 702 (50 U.S.C. 1881a) is amended—

(1) by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively; and

(2) by inserting after subsection (i) the following:

''(j) REQUIREMENTS FOR ACCESS AND DISSEMINATION OF COLLECTIONS OF COMMUNICATIONS.—

''(1) COURT ORDERS.—

''(A) IN GENERAL.—Except as provided under paragraph (3), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the contents of queried communications acquired under subsection (a) may be accessed or disseminated only if—

''(i) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that—

''(I) there is probable cause to believe that—

''(aa) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(bb) the individual is an agent of a foreign power; and

''(II) any use of such communications pursuant to section 706 will be carried out in accordance with such section; and

''(ii) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application under subparagraph (B).

''(B) ORDER.—

''(i) APPROVAL.—Upon an application made under subparagraph (A), the Foreign Intelligence Surveillance Court shall enter an order as requested or as modified by the Court approving the access or dissemination of contents of communications covered by the application if the Court determines that, based on an independent review—

''(I) the application contains all information required under subparagraph (A);

''(II) on the basis of the facts in the application, there is probable cause to believe that—

''(aa) such contents provide evidence of a crime specified in section 2516 of title 18, United States Code; or

''(bb) the person identified by the queried term is an agent of a foreign power; and

''(III) the minimization procedures adopted pursuant to subsection (e) will ensure compliance with subparagraph (A)(i)(II).

''(ii) REVIEW.—A denial of an application submitted under subparagraph (A) may be reviewed as provided in section 103.

''(2) EXPEDITIOUS CONSIDERATION.—Any application submitted under paragraph (1)(A) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(3) EXCEPTIONS.—The requirement for an order pursuant to paragraph (1) shall not apply to accessing or disseminating communications acquired under subsection (a) if—

''(A) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(B) the Attorney General—

''(i) reasonably determines that an emergency situation requires the accessing or dissemination of the communications before an order pursuant to paragraph (1) authorizing such access or dissemination can with due diligence be obtained;

''(ii) reasonably believes that the factual basis for the issuance of such an order exists; and

''(iii) with respect to the access or dissemination of the contents of such communications—

''(I) informs the Court at the time the Attorney General requires the emergency access or dissemination that the decision has been made to employ the authority under this paragraph; and

''(II) may not use the contents of such communications pursuant to section 706 if the Court finds that the determination by the Attorney General with respect to the emergency situation was not appropriate; or

''(C) there is consent provided in accordance with paragraph (12).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 404(b)(4) of the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 (50 U.S.C. 1801 note) is amended by striking ''702(l)'' each place it appears and inserting ''702(m)''.

SEC. 102. ATTORNEY GENERAL APPROVAL AND ADDITIONAL PROTECTION OF INCIDENTALLY COLLECTED UNITED STATES PERSON COMMUNICATIONS.

Subsection (j) of section 702 (50 U.S.C. 1881a), as added by section 101, is amended by inserting after paragraph (3) the following:

''(4) RELEVANCE AND APPROVAL TO ACCESS NONCONTENTS INFORMATION.—Except as provided under paragraph (5), in response to a query relating to a United States person or a person reasonably believed to be located in the United States, the information of communications acquired under subsection (a) relating to dialing, routing, addressing, or signaling information that is not content and could otherwise be lawfully obtained under title IV of this Act may be accessed or disseminated only—

''(A) with the approval of the Attorney General;

''(B) if such information is relevant to an authorized investigation or assessment and is not sought solely on the basis of activities protected by the First Amendment to the Constitution of the United States;

''(C) if an order based on probable cause would not be required by law to obtain such information if requested as part of an investigation of a Federal crime; and

''(D) if any use of such communications pursuant to section 706 will be carried out in accordance with such section.

''(5) EXCEPTIONS.—The requirement for approval of the Attorney General under paragraph (4)(A) shall not apply to accessing or disseminating information of communications acquired under subsection (a) relating to dialing, routing, addressing, or signaling information that is not content and could otherwise be lawfully obtained under title IV of this Act if—

''(A) the Attorney General determines that the person identified by the queried term is the subject of an order based upon a finding of probable cause, or emergency authorization, that authorizes electronic surveillance or physical search under this Act or title 18, United States Code (other than such emergency authorizations under title IV of this Act or section 3125 of title 18, United States Code);

''(B) a supervisory determination is obtained that—

''(i) reasonably determines that an emergency situation requires the accessing or dissemination of the information of communications before the approval of the Attorney General under paragraph (4)(A) can with due diligence be obtained;

''(ii) reasonably believes that the factual basis for the approval of the Attorney General under paragraph (4)(A) exists; and

''(iii) with respect to the access or dissemination of such information of communications—

''(I) informs the Attorney General at the time the supervisor requires the emergency access or dissemination that the decision has been made to employ the authority under this subparagraph; and

''(II) may not use such information of communications pursuant to section 706 if the Attorney General finds that the determination by the supervisor with respect to the emergency situation was not appropriate; or

''(C) there is consent provided in accordance with paragraph (12).

''(6) DUE DILIGENCE.—A determination of whether the person identified by the queried term is a United States person or a person reasonably believed to be located in the United States under paragraph (1) or (4) shall be made based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is a United States person or is reasonably believed to be located outside the United States is resolved before making such determination. If there is insufficient information available to make a determination, the person identified by the queried term shall be considered a United States person or person reasonably believed to be located in the United States for purposes of paragraphs (1) and (4).

''(7) LIMITATION ON ELECTRONIC SURVEILLANCE OF UNITED STATES PERSONS.—If the Attorney General determines that it is necessary to conduct electronic surveillance on a known United States person whose communications have been acquired under subsection (a), the Attorney General may only conduct such electronic surveillance using authority provided under other provisions of law.

''(8) SIMULTANEOUS QUERY OF FBI DATABASES.—Except as otherwise provided by law or applicable minimization procedures, the Director of the Federal Bureau of Investigation shall ensure that all available investigative or intelligence databases of the Federal Bureau of Investigation are simultaneously queried when the Federal Bureau of Investigation properly uses an information system of the Federal Bureau of Investigation to determine whether information exists in such a database.

''(9) DELEGATION.—The Attorney General shall delegate the authority under this subsection to the fewest number of officials that the Attorney General determines practicable.

''(10) RETENTION OF AUDITABLE RECORDS.—

''(A) RECORDS.—The Attorney General shall retain records of queries of a collection of communications acquired under subsection (a). The heads of elements of the intelligence community that are not components of the Department of Justice shall retain records of queries of a collection of communications acquired under subsection (a) that use a term identifying a United States person or a person located in the United States.

''(B) REQUIREMENTS.—Records retained under subparagraph (A) shall—

''(i) include queries for not less than 5 years after the date on which the query is made; and

''(ii) be maintained in a manner that is auditable and available for congressional oversight.

''(11) COMPLIANCE AND MAINTENANCE.—The requirements of this subsection do not apply with respect to queries made for the purpose of—

''(A) submitting to Congress information required by this Act or otherwise ensuring compliance with the requirements of this section; or

''(B) performing maintenance or testing of information systems.

''(12) CONSENT.—The requirements of this subsection do not apply with respect to—

''(A) queries made using a term identifying a person who is a party to the communications acquired under subsection (a), or a person who otherwise has lawful authority to provide consent, and who consents to such queries; or

''(B) the accessing or the dissemination of the contents or information of communications acquired under subsection (a) of a person who is a party to the communications, or a person who otherwise has lawful authority to provide consent, and who consents to such access or dissemination.

''(13) QUERY PURPOSES.—The contents of communications acquired under subsection (a) and the information relating to the dialing, routing, addressing, or signaling information of such communications may only be queried if the query is reasonably designed to return foreign intelligence information or evidence of a crime.''.

SEC. 103. LIMITATION ON COLLECTION AND IMPROVEMENTS TO TARGETING PROCEDURES AND MINIMIZATION PROCEDURES.

(a) TARGETING PROCEDURES; LIMITATION ON COLLECTION.—Section 702(d) (50 U.S.C. 1881a(d)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting ''In accordance with paragraphs (3) and (4), the Attorney General''; and

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

''(3) DUE DILIGENCE.—The procedures adopted in accordance with paragraph (1) shall require due diligence in determining whether a person targeted is a non-United States person reasonably believed to be located outside the United States by—

''(A) making the determination based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is reasonably believed to be located outside the United States or is a United States person is resolved before making such determination;

''(B) documenting the processes used for determinations described in subparagraph (A); and

''(C) documenting the rationale for why targeting such person will result in the acquisition of foreign intelligence information authorized by subsection (a).

''(4) LIMITATION.—

''(A) IN GENERAL.—The procedures adopted in accordance with paragraph (1) shall require that the targeting of a person is limited to communications to or from the targeted person.

''(B) ANNUAL REPORT.—On an annual basis, 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 on—

''(i) any difficulty relating to the limitation under subparagraph (A); and

''(ii) the technical feasibility of ensuring that the handling of communications acquired under subsection (a) with respect to incidentally collected United States person information complies with the minimization procedures adopted under subsection (e).''.

(b) MINIMIZATION PROCEDURES.—Section 702(e) (50 U.S.C. 1881a(e)) is amended—

(1) in paragraph (1), by inserting '', and the requirements of this subsection'' before the period at the end; and

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

''(3) REQUESTS TO UNMASK INFORMATION.—The procedures adopted under paragraph (1) shall include specific procedures adopted by the Attorney General for elements of the intelligence community to submit requests to unmask information in disseminated intelligence reports. Such specific procedures shall—

''(A) require the documentation of the requesting individual that such request is for legitimate reasons authorized pursuant to paragraph (1); and

''(B) require the retention of the records of each request, including—

''(i) a copy of the request;

''(ii) the name and position of the individual who is making the request; and

''(iii) if the request is approved, the name and position of the individual who approved the request and the date of the approval.''.

(c) UNMASK DEFINED.—Section 701(b) (50 U.S.C. 1881(b)) is amended by adding at the end the following new paragraph:

''(6) UNMASK.—The term 'unmask' means, with respect to a disseminated intelligence report containing a reference to a United States person that does not identify that person (including by name or title), to disseminate the identity of the United States person, including the name or title of the person.''.

(d) CONSISTENT REQUIREMENTS TO RETAIN RECORDS ON REQUESTS TO UNMASK INFORMATION.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 101(h) (50 U.S.C. 1801(h))—

(A) in paragraph (3), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

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

''(5) specific procedures as described in section 702(e)(3).''.

(2) In section 301(4) (50 U.S.C. 1821(4))—

(A) in subparagraph (C), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

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

''(E) specific procedures as described in section 702(e)(3).''.

(3) In section 402(h) (50 U.S.C. 1842(h))—

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

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

''(2) REQUESTS FOR NONPUBLICLY AVAILABLE INFORMATION.—The policies and procedures adopted under paragraph (1) shall include specific procedures as described in section 702(e)(3).''.

(4) In section 501(g)(2) (50 U.S.C. 1861(g)(2))—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

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

''(D) specific procedures as described in section 702(e)(3).''.

(e) REPORT ON UNMASKING.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate a report on the progress made by the Director with respect to—

(1) ensuring that incidentally collected communications of United States persons (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) are properly masked if masking is necessary; and

(2) implementing procedures for requests to unmask information under section 702(e)(3) of such Act (50 U.S.C. 1881a(e)(3)), as added by subsection (c).

SEC. 104. PUBLICATION OF MINIMIZATION PROCEDURES UNDER SECTION 702.

Section 702(e) (50 U.S.C. 1881a(e)), as amended by section 103, is further amended by adding at the end the following:

''(4) PUBLICATION.—The Director of National Intelligence, in consultation with the Attorney General, shall—

''(A) conduct a declassification review of any minimization procedures adopted or amended in accordance with paragraph (1); and

''(B) consistent with such review, and not later than 180 days after conducting such review, make such minimization procedures publicly available to the greatest extent practicable, which may be in redacted form.''.

SEC. 105. APPOINTMENT OF AMICUS CURIAE FOR ANNUAL CERTIFICATIONS.

Section 103(i) (50 U.S.C. 1803(i)(2)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) shall appoint an individual who has been designated under paragraph (1) to serve as amicus curiae to assist such court in the review of a certification under section 702(i), unless the court issues a finding that such appointment is not necessary; and''; and

(2) in paragraphs (4) and (5), by striking ''paragraph (2)(A)'' both places it appears and inserting ''subparagraph (A) or (B) of paragraph (2)''.

SEC. 106. INCREASED ACCOUNTABILITY ON INCIDENTALLY COLLECTED COMMUNICATIONS.

Section 707 (50 U.S.C. 1881f) is amended by adding at the end the following new subsection:

''(c) INCIDENTALLY COLLECTED COMMUNICATIONS AND OTHER INFORMATION.—Together with the semiannual report submitted under subsection (a), the Director of National Intelligence shall submit to the congressional committees specified in such subsection a report on incidentally collected communications and other information regarding United States persons under section 702. Each such report shall include, with respect to the 6-month period covered by the report, the following:

''(1) Except as provided by paragraph (2), the number, or a good faith estimate, of communications of United States persons acquired under subsection (a) of such section, including a description of any efforts of the intelligence community to ascertain such number or good faith estimate.

''(2) If the Director determines that the number, or a good faith estimate, under paragraph (1) is not achievable, a detailed explanation for why such number or good faith estimate is not achievable.

''(3) The number of—

''(A) United States persons whose information is unmasked pursuant to the procedures adopted under subsection (e)(3) of such section;

''(B) requests made by an element of the intelligence community, listed by each such element, to unmask information pursuant to such subsection; and

''(C) requests that resulted in the dissemination of names, titles, or other identifiers potentially associated with individuals pursuant to such subsection, including the element of the intelligence community and position of the individual making the request.

''(4) The number of disseminations of communications acquired under subsection (a) of section 702 to the Federal Bureau of Investigation for cases unrelated to foreign intelligence.

''(5) The number of instances in which evidence of a crime unrelated to foreign intelligence that was identified in communications acquired under subsection (a) of section 702 was disseminated from the national security branch of the Bureau to the criminal investigative division of the Bureau (or from such successor branch to such successor division).

''(6) The number of individuals to whom the Attorney General has delegated authority pursuant to subsection (j)(2)(G) of section 702.''.

SEC. 107. SEMIANNUAL REPORTS ON CERTAIN QUERIES BY FEDERAL BUREAU OF INVESTIGATION.

Section 707 (50 U.S.C. 1881f), as amended by section 106, is further amended by adding at the end the following new subsection:

''(d) SEMIANNUAL FBI REPORTS.—Together with the semiannual report submitted under subsection (a), the Director of the Federal Bureau of Investigation shall submit to the congressional committees specified in such subsection, and make publicly available, a report containing, with respect to the period covered by the report—

''(1) the number of applications made by the Federal Bureau of Investigation described in subsection (j)(1)(A) of section 702;

''(2) the number of such applications that were approved and resulted in the contents of communications being accessed or disseminated pursuant to such subsection; and

''(3) the number of Attorney General approvals made pursuant to subsection (j)(4)(A) of such section.''.

SEC. 108. ADDITIONAL REPORTING REQUIREMENTS.

(a) ELECTRONIC SURVEILLANCE.—Section 107 (50 U.S.C. 1807) is amended to read as follows:

''SEC. 107. REPORT OF ELECTRONIC SURVEILLANCE.

''(a) ANNUAL REPORT.—In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

''(1) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title;

''(2) the total number of such orders and extensions either granted, modified, or denied; and

''(3) the total number of persons who were subject to electronic surveillance conducted under an order or emergency authorization under this title, rounded to the nearest 500, including the number of such individuals who are United States persons, reported to the nearest band of 500, starting with 0–499.

''(b) FORM.—Each report under subsection (a) shall be submitted in unclassified form. Not later than 7 days after the date on which the Attorney General submits each such report, the Attorney General shall make the report publicly available.''.

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 406 (50 U.S.C. 1846) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

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

''(6) a good faith estimate of the total number of subjects who were targeted by the installation and use of a pen register or trap and trace device under an order or emergency authorization issued under this title, rounded to the nearest 500, including—

''(A) the number of such subjects who are United States persons, reported to the nearest band of 500, starting with 0–499; and

''(B) of the number of United States persons described in subparagraph (A), the number of persons whose information acquired pursuant to such order was reviewed or accessed by a Federal officer, employee, or agent, reported to the nearest band of 500, starting with 0–499.''; and

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

''(c) Each report under subsection (b) shall be submitted in unclassified form. Not later than 7 days after the date on which the Attorney General submits such a report, the Attorney General shall make such report publicly available.''.

SEC. 109. APPLICATION OF CERTAIN AMENDMENTS.

The amendments made by sections 101, 102, and 103 of this Act shall apply with respect to applications, certifications, and procedures submitted to the Foreign Intelligence Surveillance Court on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 110. SENSE OF CONGRESS ON PURPOSE OF SECTION 702 AND RESPECTING FOREIGN NATIONALS.

It is the sense of Congress that—

(1) the acquisition of communications by the National Security Agency under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) should be conducted within the bounds of treaties and agreements to which the United States is a party, and there should be no targeting of non-United States persons for any unfounded discriminatory purpose or for the purpose of affording a commercial competitive advantage to companies and business sectors of the United States; and

(2) the authority to collect intelligence under such section 702 is meant to shield the United States, and by extension, the allies of the United States, from security threats.

TITLE II—SAFEGUARDS AND OVERSIGHT OF PRIVACY AND CIVIL LIBERTIES

SEC. 201. LIMITATION ON RETENTION OF CERTAIN DATA.

Subsection (m) of section 702 (50 U.S.C. 1881a), as redesignated by section 101, is amended—

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

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

''(2) AFFIDAVIT ON DELETION INCLUDED IN SEMIANNUAL ASSESSMENT TO FISC AND CONGRESS.—Each semiannual assessment under paragraph (1) shall include, with respect to the 6-month period covered by the assessment, an affidavit by the Director of the National Security Agency, without delegation, that communications acquired under subsection (a) determined not to contain foreign intelligence information, if any, were deleted.''.

SEC. 202. IMPROVEMENTS TO PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) APPOINTMENT OF STAFF.—Subsection (j) of section 1061 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 unanimous vote of the serving members of the Board, may exercise the authority of the chairman under paragraph (1).''.

(b) MEETINGS.—Subsection (f) of such section (42 U.S.C. 2000ee(f)) is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(c) REPORT ON SECTION 702 AND TERRORISM.—Not later than 1 year after the date on which the Privacy and Civil Liberties Oversight Board first achieves a quorum following the date of the enactment of this Act, the Board shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report assessing—

(1) how communications acquired under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) are used by the United States to prevent or defend against terrorism;

(2) whether technological challenges and changes in technology affect the prevention of and defense against terrorism, and how effectively the foreign intelligence elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) have responded to those challenges; and

(3) how privacy and civil liberties are affected by the actions identified under paragraph (1) and the changes in technology identified under paragraph (2), and whether race, religion, political affiliation, or activities protected by the First Amendment to the Constitution of the United States are determinative in the targeting or querying decisions made pursuant to such section 702.

SEC. 203. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) CODIFICATION OF CERTAIN OFFICERS.—Section 1062(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(a)) is amended in the matter preceding paragraph (1) by inserting '', the Director of the National Security Agency, the Director of the Federal Bureau of Investigation'' after ''the Director of the Central Intelligence Agency''.

(b) ANNUAL REPORTS ON INCIDENTAL COMMUNICATIONS OF UNITED STATES PERSONS.—Paragraph (4)(A) of subsection (m) of section 702 (50 U.S.C. 1881a), as redesignated by sections 101 and 201, is amended—

(1) in clause (iii), by striking ''; and'' and inserting a semicolon;

(2) in clause (iv), by striking the period at the end and inserting ''; and''; and

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

''(v) a review by the privacy and civil liberties officer of the element of incidentally collected communications of United States persons to assess compliance with the minimization procedures adopted under subsection (e) and the effect of this section on the privacy of United States persons.''.

SEC. 204. WHISTLEBLOWER PROTECTIONS FOR CONTRACTORS OF THE INTELLIGENCE COMMUNITY.

(a) PROHIBITED PERSONNEL PRACTICES IN THE INTELLIGENCE COMMUNITY.—Section 1104 of the National Security Act of 1947 (50 U.S.C. 3234) is amended—

(1) in subsection (a)—

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

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

''(2) CONTRACTOR EMPLOYEE.—The term 'contractor employee' means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor of a covered intelligence community element.''; and

(C) in paragraph (4), as so redesignated, in the matter preceding subparagraph (A) by inserting ''or a contractor employee of a covered intelligence community element'' after ''character)'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following new subsection (c):

''(c) CONTRACTOR EMPLOYEES.—(1) A contractor employee or employee of a covered intelligence community element who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any contractor employee as a reprisal for a lawful disclosure of information by the contractor employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), the Inspector General of the Intelligence Community, the head of the contracting agency (or an employee designated by the head of that agency for such purpose), the appropriate inspector general of the contracting agency, a congressional intelligence committee, or a member of a congressional intelligence committee, which the contractor employee reasonably believes evidences—

''(A) a violation of any Federal law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

''(2) A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an officer or employee of the applicable covered intelligence community element, unless the request takes the form of a nondiscretionary directive and is within the authority of the officer or employee making the request.

''(3) A contractor employee may raise a violation of paragraph (1) in any proceeding to implement or challenge a personnel action described in such paragraph.'';

(4) in subsection (b), by striking the heading and inserting ''AGENCY EMPLOYEES.—''; and

(5) in subsection (e)(1), as redesignated by paragraph (2), by inserting ''contractor employee,'' after ''any employee,''.

(b) FEDERAL BUREAU OF INVESTIGATION.—

(1) IN GENERAL.—Any contractor employee or employee of the Federal Bureau of Investigation who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to a contractor employee as a reprisal for a disclosure of information—

(A) made—

(i) to a supervisor in the direct chain of command of the contractor employee, up to and including the Director of the Federal Bureau of Investigation;

(ii) to the Inspector General of the Department of Justice;

(iii) to the Office of Professional Responsibility of the Department of Justice;

(iv) to the Office of Professional Responsibility of the Federal Bureau of Investigation;

(v) to the Inspection Division of the Federal Bureau of Investigation;

(vi) as described in section 7211 of title 5, United States Code;

(vii) to the Office of Special Counsel; or

(viii) to an employee designated by any officer, employee, office, or division described in clauses (i) through (vii) for the purpose of receiving such disclosures; and

(B) which the contractor employee reasonably believes evidences—

(i) any violation of any law, rule, or regulation (including with respect to evidence of another employee or contractor employee accessing or sharing classified information without authorization); or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(2) ACTIONS BY REQUEST.—A personnel action under paragraph (1) is prohibited even if the action is undertaken at the request of an officer or employee of the Federal Bureau of Investigation, unless the request takes the form of a nondiscretionary directive and is within the authority of the officer or employee making the request.

(3) VIOLATION.—A contractor employee may raise a violation of paragraph (1) in any proceeding to implement or challenge a personnel action described in such paragraph.

(4) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action described in paragraph (1) shall not be taken against a contractor employee of the Bureau as a reprisal for any disclosure of information described in such paragraph.

(5) ENFORCEMENT.—The President shall provide for the enforcement of this subsection in a manner consistent with applicable provisions of sections 1214 and 1221 of title 5, United States Code.

(6) DEFINITIONS.—In this subsection:

(A) The term ''contractor employee'' means an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of the Federal Bureau of Investigation.

(B) The term ''personnel action'' means any action described in clauses (i) through (x) of section 2302(a)(2)(A) of title 5, United States Code, with respect to a contractor employee.

(c) RETALIATORY REVOCATION OF SECURITY CLEARANCES AND ACCESS DETERMINATIONS.—Section 3001(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341(j)) is amended by adding at the end the following new paragraph:

''(8) INCLUSION OF CONTRACTOR EMPLOYEES.—In this subsection, the term 'employee' includes an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor, of an agency. With respect to such employees, the term 'employing agency' shall be deemed to be the contracting agency.''.

TITLE III—EXTENSION OF AUTHORITIES, INCREASED PENALTIES, REPORTS, AND OTHER MATTERS

SEC. 301. EXTENSION OF TITLE VII OF FISA; EFFECTIVE DATES.

(a) EXTENSION.—Section 403(b) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2474) is amended—

(1) in paragraph (1)—

(A) by striking ''December 31, 2017'' and inserting ''September 30, 2023''; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)''; and

(2) in paragraph (2) in the matter preceding subparagraph (A), by striking ''December 31, 2017'' and inserting ''September 30, 2023''.

(b) CONFORMING AMENDMENTS.—Section 404(b) of the FISA Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2476) is amended—

(1) in paragraph (1)—

(A) in the heading, by striking ''DECEMBER 31, 2017'' and inserting ''SEPTEMBER 30, 2023''; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)'';

(2) in paragraph (2), by inserting ''and by the USA Liberty Act of 2017'' after ''section 101(a)''; and

(3) in paragraph (4)—

(A) by inserting ''and amended by the USA Liberty Act of 2017'' after ''as added by section 101(a)'' both places it appears; and

(B) by inserting ''and by the USA Liberty Act of 2017'' after ''as amended by section 101(a)'' both places it appears.

(c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—The amendments made to the FISA Amendments Act of 2008 (Public Law 110–261) by this section shall take effect on the earlier of the date of the enactment of this Act or December 31, 2017.

SEC. 302. INCREASED PENALTY FOR UNAUTHORIZED REMOVAL AND RETENTION OF CLASSIFIED DOCUMENTS OR MATERIAL.

Section 1924(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''5 years''.

SEC. 303. RULE OF CONSTRUCTION REGARDING CRIMINAL PENALTIES FOR UNAUTHORIZED USE OF INFORMATION ACQUIRED UNDER SECTION 702 AND UNAUTHORIZED DISCLOSURE OF UNITED STATES PERSON INFORMATION.

Nothing in this Act or the amendments made by this Act may be construed to limit the application or effect of criminal penalties under section 552a(i) of title 5, United States Code, sections 1001, 1030, and 1924 of title 18, United States Code, or any other relevant provision of law, with respect to offenses relating to the unauthorized access or use of information acquired under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) or the unauthorized disclosure of United States person information acquired under such section.

SEC. 304. COMPTROLLER GENERAL STUDY ON UNAUTHORIZED DISCLOSURES AND THE CLASSIFICATION SYSTEM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the unauthorized disclosure of classified information and the classification system of the United States.

(b) MATTERS INCLUDED.—The study under subsection (a) shall address the following:

(1) Insider threat risks to the unauthorized disclosure of classified information.

(2) The effect of modern technology on the unauthorized disclosure of classified information, including with respect to—

(A) using cloud storage for classified information; and

(B) any technological means to prevent or detect such unauthorized disclosure.

(3) The effect of overclassification on the unauthorized disclosure of classified information.

(4) Any ways to improve the classification system of the United States, including with respect to changing the levels of classification used in such system and to reduce overclassification.

(5) How to improve the authorized sharing of classified information, including with respect to sensitive compartmented information.

(6) The value of polygraph tests in determining who is authorized to access classified information.

(7) Whether each element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)))—

(A) applies uniform standards in determining who is authorized to access classified information; and

(B) provides proper training with respect to the handling of classified information and the avoidance of overclassification.

(c) COOPERATION.—The heads of the intelligence community shall provide to the Comptroller General information the Comptroller General determines necessary to carry out the study under subsection (a).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the study under subsection (a).

(e) FORM.—The report under subsection (d) shall be submitted in unclassified form, but may include a classified annex.

SEC. 305. SENSE OF CONGRESS ON INFORMATION SHARING AMONG INTELLIGENCE COMMUNITY TO PROTECT NATIONAL SECURITY.

It is the sense of Congress that, in carrying out section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by this Act, the United States Government should ensure that the barriers, whether real or perceived, to sharing critical foreign intelligence among the intelligence community that existed before September 11, 2001, are not reimposed by sharing information vital to national security among the intelligence community in a manner that is consistent with such section, applicable provisions of law, and the Constitution of the United States.

SEC. 306. SENSE OF CONGRESS ON COMBATING TERRORISM.

It is the sense of Congress that, consistent with the protection of sources and methods, when lawful and appropriate, the President should share information learned by acquiring communications under section 702 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1881a) with allies of the United States to prevent and defend against terrorism.

SEC. 307. TECHNICAL AMENDMENTS AND AMENDMENTS TO IMPROVE PROCEDURES OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

(a) TECHNICAL AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 103(b) (50 U.S.C. 1803(b)), by striking ''designate as the'' and inserting ''designated as the''.

(2) In section 302(a)(1)(A)(iii) (50 U.S.C. 1822(a)(1)(A)(iii)), by striking ''paragraphs (1) through (4)'' and inserting ''subparagraphs (A) through (D)''.

(3) In section 406(b) (50 U.S.C. 1846(b)), by striking ''and to the Committees on the Judiciary of the House of Representatives and the Senate''.

(4) In section 604(a) (50 U.S.C. 1874(a))—

(A) in paragraph (1)(D), by striking ''contents'' and inserting ''contents,''; and

(B) in paragraph (3), by striking ''comply in the into'' and inserting ''comply into''.

(5) In section 701 (50 U.S.C. 1881)—

(A) in subsection (a), by striking ''The terms'' and inserting ''In this title, the terms''; and

(B) in subsection (b)—

(i) by inserting ''In this title:'' after the subsection heading; and

(ii) in paragraph (5), by striking ''(50 U.S.C. 401a(4))'' and inserting ''(50 U.S.C. 3003(4))''.

(6) In section 702(g)(2)(A)(i) (50 U.S.C. 1881a(g)(2)(A)(i)), by inserting ''targeting'' before ''procedures in place''.

(7) In section 801(7) (50 U.S.C. 1885(7)), by striking ''(50 U.S.C. 401a(4))'' and inserting ''(50 U.S.C. 3003(4))''.

(b) COURT-RELATED AMENDMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended as follows:

(1) In section 103 (50 U.S.C. 1803)—

(A) in subsection (b), by striking ''immediately''; and

(B) in subsection (h), by striking ''the court established under subsection (a)'' and inserting ''a court established under this section''.

(2) In section 105(d) (50 U.S.C. 1805(d)), by adding at the end the following new paragraph:

''(4) A denial of the application made under section 104 may be reviewed as provided in section 103.''.

(3) In section 302(d) (50 U.S.C. 1822(d)), by striking ''immediately''.

(4) In section 402(d) (50 U.S.C. 1842(d)), by adding at the end the following new paragraph:

''(3) A denial of the application made under this subsection may be reviewed as provided in section 103.''.

(5) In section 403(c) (50 U.S.C. 1843(c)), by adding at the end the following new paragraph:

''(3) A denial of the application made under subsection (a)(2) may be reviewed as provided in section 103.''.

(6) In section 501(c) (50 U.S.C. 1861(c)), by adding at the end the following new paragraph:

''(4) A denial of the application made under this subsection may be reviewed as provided in section 103.''.

SEC. 308. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act, of any such amendments, and of the application of such provisions to other persons and circumstances shall not be affected thereby.

SEC. 309. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to authorize the acquisition, querying, retention, dissemination, or use of information not previously authorized under the FISA Amendments Act of 2008 or the amendments made by that Act.

SA 1877. Mr. LEE (for himself, Mr. LEAHY, Mr. DAINES, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, strike line 13 and all that follows through page 27, line 23 and insert the following:

SEC. 103. LIMITATION ON COLLECTION AND IMPROVEMENTS TO TARGETING PROCEDURES AND MINIMIZATION PROCEDURES.

(a) TARGETING PROCEDURES; LIMITATION ON COLLECTION.—Section 702(d) (50 U.S.C. 1881a(d)) is amended—

(1) in paragraph (1), by striking ''The Attorney General'' and inserting ''In accordance with paragraphs (3) and (4), the Attorney General''; and

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

''(3) DUE DILIGENCE.—The procedures adopted in accordance with paragraph (1) shall require due diligence in determining whether a person targeted is a non-United States person reasonably believed to be located outside the United States by—

''(A) making the determination based on the totality of the circumstances, including by, to the extent practicable, ensuring that any conflicting information regarding whether the person is reasonably believed to be located outside the United States or is a United States person is resolved before making such determination;

''(B) documenting the processes used for determinations described in subparagraph (A); and

''(C) documenting the rationale for why targeting such person will result in the acquisition of foreign intelligence information authorized by subsection (a).

''(4) LIMITATION.—

''(A) IN GENERAL.—The procedures adopted in accordance with paragraph (1) shall require that the targeting of a person is limited to communications to or from the targeted person.

''(B) ANNUAL REPORT.—On an annual basis, 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 on—

''(i) any difficulty relating to the limitation under subparagraph (A); and

''(ii) the technical feasibility of ensuring that the handling of communications acquired under subsection (a) with respect to incidentally collected United States person information complies with the minimization procedures adopted under subsection (e).''.

(b) MINIMIZATION PROCEDURES.—Section 702(e) (50 U.S.C. 1881a(e)) is amended—

(1) in paragraph (1), by inserting '', and the requirements of this subsection'' before the period at the end; and

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

''(3) REQUESTS TO UNMASK INFORMATION.—The procedures adopted under paragraph (1) shall include specific procedures adopted by the Attorney General for elements of the intelligence community to submit requests to unmask information in disseminated intelligence reports. Such specific procedures shall—

''(A) require the documentation of the requesting individual that such request is for legitimate reasons authorized pursuant to paragraph (1); and

''(B) require the retention of the records of each request, including—

''(i) a copy of the request;

''(ii) the name and position of the individual who is making the request; and

''(iii) if the request is approved, the name and position of the individual who approved the request and the date of the approval.''.

(c) UNMASK DEFINED.—Section 701(b) (50 U.S.C. 1881(b)) is amended by adding at the end the following new paragraph:

''(6) UNMASK.—The term 'unmask' means, with respect to a disseminated intelligence report containing a reference to a United States person that does not identify that person (including by name or title), to disseminate the identity of the United States person, including the name or title of the person.''.

(d) CONSISTENT REQUIREMENTS TO RETAIN RECORDS ON REQUESTS TO UNMASK INFORMATION.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended as follows:

(1) In section 101(h) (50 U.S.C. 1801(h))—

(A) in paragraph (3), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

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

''(5) specific procedures as described in section 702(e)(3).''.

(2) In section 301(4) (50 U.S.C. 1821(4))—

(A) in subparagraph (C), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

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

''(E) specific procedures as described in section 702(e)(3).''.

(3) In section 402(h) (50 U.S.C. 1842(h))—

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

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

''(2) REQUESTS FOR NONPUBLICLY AVAILABLE INFORMATION.—The policies and procedures adopted under paragraph (1) shall include specific procedures as described in section 702(e)(3).''.

(4) In section 501(g)(2) (50 U.S.C. 1861(g)(2))—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

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

''(D) specific procedures as described in section 702(e)(3).''.

(e) REPORT ON UNMASKING.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate a report on the progress made by the Director with respect to—

(1) ensuring that incidentally collected communications of United States persons (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) are properly masked if masking is necessary; and

(2) implementing procedures for requests to unmask information under section 702(e)(3) of such Act (50 U.S.C. 1881a(e)(3)), as added by subsection (c).

SA 1878. Mrs. FEINSTEIN (for herself, Ms. HARRIS, Mr. LEAHY, and Mr. LEE) submitted an amendment intended to be proposed by her to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 4, strike line 1 and all that follows through page 7, line 16, and insert the following:

''(2) REQUIREMENTS FOR ACCESS TO COMMUNICATIONS OF UNITED STATES PERSONS.—

''(A) COURT ORDERS.—Except as provided under subparagraph (C), in response to a query relating to a United States person, the contents of queried communications acquired under subsection (a) may be accessed only if—

''(i) the Attorney General submits to the Foreign Intelligence Surveillance Court an application that demonstrates that there is probable cause to believe that—

''(I) such contents may relate to a crime a specified in section 2516 of title 18, United States Code; or

''(II) the individual is the agent of a foreign power; and

''(ii) a judge of the Foreign Intelligence Surveillance Court reviews and approves such application.

''(B) EXPEDITIOUS CONSIDERATION.—Any application under subparagraph (A) shall be considered by the Foreign Intelligence Surveillance Court expeditiously and without delay.

''(C) EXCEPTION.—If the Attorney General determines that exigent circumstances require access to contents before an order can be obtained, the Attorney General may access such contents without an order for a maximum period of 7 days.

''(D) REPORTING.—Not less frequently than once every 6 months, the Attorney General shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the number of times the Attorney General has made a determination under subparagraph (C) in the previous 6 months.

On page 15, strike lines 20 through 23.

On page 42, line 15, strike ''Federal Bureau of Investigation'' and insert ''Attorney General''.

SA 1879. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 (50 U.S.C. 1881a), as amended by section 101, is further amended by adding at the end the following:

''(n) 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.''.

SA 1880. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 8 and all that follows through page 17, line 11, and insert the following:

(a) LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.—Section 706(a) (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States

or to other personnel of the United States Government or a government of an ally of the United States.''.

SA 1881. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House Amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2, strike line 14 and all that follows through page 15, line 6, and insert the following:

SEC. 101. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

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 QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States 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 query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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.

''(ii) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SA 1882. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1883. Mr. PAUL (for himself, Mr. WYDEN, and Mr. MARKEY) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

(2) by amending subsection (b) to read as follows:

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SA 1884. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 32, strike line 16 and all that follows through page 33, line 21, and insert the following:

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) 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—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

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

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

''(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. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(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 recipient 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

(B) by adding at the end the following:

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

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) 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.

(d) 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:

''(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).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

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

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

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

(B) in subsection (i)(1)—

(i) 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

(ii) 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

(C) 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''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

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

(ii) except as provided in paragraph (2), shall 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.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) 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)), (referred to in this clause as a ''current member'') may make an election to—

(aa) 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 section; or

(bb) 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 the 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 subclause (I)(aa) 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 such election.

(f) MEETINGS.—Subsection (f) of such section is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(g) 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 shall 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 1885. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1886. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(i)(1)), as redesignated by section 101(a)(1)(A), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SA 1887. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

(2) by amending subsection (b) to read as follows:

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SA 1888. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the House amendment to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, strike line 8 and all that follows through page 17, line 11, and insert the following:

(a) LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.—Section 706(a) (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SA 1889. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Uniting and Strengthening America by Reforming and Improving the Government's High-Tech Surveillance Act of 2017'' or the ''USA RIGHTS Act of 2017''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Clarification on prohibition on querying of collections of communications to conduct warrantless queries for the communications of United States persons and persons inside the United States.
Sec. 3. Prohibition on reverse targeting under certain authorities of the Foreign Intelligence Surveillance Act of 1978.
Sec. 4. Prohibition on acquisition, pursuant to certain FISA authorities to target certain persons outside the United States, of communications that do not include persons targeted under such authorities.
Sec. 5. Prohibition on acquisition of entirely domestic communications under authorities to target certain persons outside the United States.
Sec. 6. Limitation on use of information obtained under certain authority of Foreign Intelligence Surveillance Act of 1978 relating to United States persons.
Sec. 7. Reforms of the Privacy and Civil Liberties Oversight Board.
Sec. 8. Improved role in oversight of electronic surveillance by amici curiae appointed by courts under Foreign Intelligence Surveillance Act of 1978.
Sec. 9. Reforms to the Foreign Intelligence Surveillance Court.
Sec. 10. Study and report on diversity and representation on the FISA Court and the FISA Court of Review.
Sec. 11. Grounds for determining injury in fact in civil action relating to surveillance under certain provisions of Foreign Intelligence Surveillance Act of 1978.
Sec. 12. Clarification of applicability of requirement to declassify significant decisions of Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review.

Sec. 13. Clarification regarding treatment of information acquired under Foreign Intelligence Surveillance Act of 1978.
Sec. 14. Limitation on technical assistance from electronic communication service providers under the Foreign Intelligence Surveillance Act of 1978.
Sec. 15. Modification of authorities for public reporting by persons subject to nondisclosure requirement accompanying order under Foreign Intelligence Surveillance Act of 1978.
Sec. 16. Annual publication of statistics on number of persons targeted outside the United States under certain Foreign Intelligence Surveillance Act of 1978 authority.
Sec. 17. Repeal of nonapplicability to Federal Bureau of Investigation of certain reporting requirements under Foreign Intelligence Surveillance Act of 1978.
Sec. 18. Publication of estimates regarding communications collected under certain provision of Foreign Intelligence Surveillance Act of 1978.
Sec. 19. Four-year extension of FISA Amendments Act of 2008.

SEC. 2. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

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 QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States 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 query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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.

''(ii) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SEC. 3. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(1)(B), as redesignated by section 2, by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(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''; 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. 4. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2, is amended—

(1) in subparagraph (D), as redesignated by section 2, by striking ''; and'' and inserting a semicolon;

(2) by redesignating subparagraph (E) as subparagraph (G); and

(3) by inserting after subparagraph (D) the following:

''(E) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition;''.

SEC. 5. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2 and amended by section 4, is further amended by inserting after subparagraph (E), as added by section 4, the following:

''(F) may not acquire communications known to be entirely domestic; and''.

SEC. 6. LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.

Section 706(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) 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—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

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

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

''(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. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(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 recipient 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

(B) by adding at the end the following:

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

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) 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.

(d) 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:

''(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).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

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

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

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

(B) in subsection (i)(1)—

(i) 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

(ii) 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

(C) 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''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

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

(ii) except as provided in paragraph (2), shall 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.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) 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)), (referred to in this clause as a ''current member'') may make an election to—

(aa) 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 section; or

(bb) 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 the 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 subclause (I)(aa) 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 such election.

(f) 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 shall 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)).

SEC. 8. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any

other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SEC. 9. REFORMS TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) FISA COURT JUDGES.—

(1) NUMBER AND DESIGNATION OF JUDGES.—Section 103(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)(1)) is amended to read as follows:

''(1)(A) There is a court which shall have jurisdiction to hear applications for and to grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act.

''(B)(i) The court established under subparagraph (A) shall consist of 13 judges, one of whom shall be designated from each judicial circuit (including the United States Court of Appeals for the District of Columbia and the United States Court of Appeals for the Federal Circuit).

''(ii) The Chief Justice of the United States shall—

''(I) designate each judge of the court established under subparagraph (A) from the nominations made under subparagraph (C); and

''(II) make the name of each judge of such court available to the public.

''(C)(i) When a vacancy occurs in the position of a judge of the court established under subparagraph (A) from a judicial circuit, the chief judge of the circuit shall propose a district judge for a judicial district within the judicial circuit to be designated for that position.

''(ii) If the Chief Justice does not designate a district judge proposed under clause (i), the chief judge shall propose 2 other district judges for a judicial district within the judicial circuit to be designated for that position and the Chief Justice shall designate 1 such district judge to that position.

''(D) No judge of the court established under subparagraph (A) (except when sitting en banc under paragraph (2)) shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge of such court.

''(E) If any judge of the court established under subparagraph (A) denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for the judge's decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).''.

(2) TENURE.—Section 103(d) of such Act is amended by striking ''redesignation,'' and all that follows through the end and inserting ''redesignation.''.

(3) IMPLEMENTATION.—

(A) INCUMBENTS.—A district judge designated to serve on the court established under subsection (a) of such section before the date of enactment of this Act may continue to serve in that position until the end of the term of the district judge under subsection (d) of such section, as in effect on the day before the date of the enactment of this Act.

(B) INITIAL APPOINTMENT AND TERM.—Notwithstanding any provision of such section, as amended by paragraphs (1) and (2), and not later than 180 days after the date of enactment of this Act, the Chief Justice of the United States shall—

(i) designate a district court judge who is serving in a judicial district within the District of Columbia circuit and proposed by the chief judge of such circuit to be a judge of the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) for an initial term of 7 years; and

(ii) designate a district court judge who is serving in a judicial district within the Federal circuit and proposed by the chief judge of such circuit to be a judge of such court for an initial term of 4 years.

(b) COURT OF REVIEW.—Section 103(b) of such Act is amended—

(1) by striking ''The Chief Justice'' and inserting ''(1) Subject to paragraph (2), the Chief Justice''; and

(2) by adding at the end the following:

''(2) The Chief Justice may designate a district court judge or circuit court judge to a position on the court established under paragraph (1) only if at least 5 associate justices approve the designation of such individual.''.

SEC. 10. STUDY AND REPORT ON DIVERSITY AND REPRESENTATION ON THE FISA COURT AND THE FISA COURT OF REVIEW.

(a) STUDY.—The Committee on Intercircuit Assignments of the Judicial Conference of the United States shall conduct a study on how to ensure judges are appointed to the court established under subsection (a) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) and the court established under subsection (b) of such section in a manner that ensures such courts are diverse and representative.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Committee on Intercircuit Assignments shall submit to Congress a report on the study carried out under subsection (a).

SEC. 11. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by sections 2, 3, 4, 5, and 8(b), is further amended by adding at the end the following:

''(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.''.

SEC. 12. CLARIFICATION OF APPLICABILITY OF REQUIREMENT TO DECLASSIFY SIGNIFICANT DECISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE COURT AND FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

Section 602 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1872) shall apply with respect to decisions, orders, and opinions described in subsection (a) of such section that were issued on, before, or after the date of the enactment of the Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act of 2015 (Public Law 114–23).

SEC. 13. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

(2) by amending subsection (b) to read as follows:

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

SEC. 14. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(h)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(h)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SEC. 15. MODIFICATION OF AUTHORITIES FOR PUBLIC REPORTING BY PERSONS SUBJECT TO NONDISCLOSURE REQUIREMENT ACCOMPANYING ORDER UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) MODIFICATION OF AGGREGATION BANDING.—Subsection (a) of section 604 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1874) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

''(1) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

''(A) the number of national security letters received, reported—

''(i) for the first 1000 national security letters received, in bands of 200 starting with 1–200; and

''(ii) for more than 1000 national security letters received, the precise number of national security letters received;

''(B) the number of customer selectors targeted by national security letters, reported—

''(i) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(ii) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted;

''(C) the number of orders or directives received, combined, under this Act for contents—

''(i) reported—

''(I) for the first 1000 orders and directives received, in bands of 200 starting with 1–200; and

''(II) for more than 1000 orders and directives received, the precise number of orders received; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704;

''(D) the number of customer selectors targeted under orders or directives received, combined, under this Act for contents—

''(i) reported—

''(I) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(II) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704;

''(E) the number of orders or directives received under this Act for noncontents—

''(i) reported—

''(I) for the first 1000 orders or directives received, in bands of 200 starting with 1–200; and

''(II) for more than 1000 orders or directives received, the precise number of orders received; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704; and

''(F) the number of customer selectors targeted under orders or directives under this Act for noncontents—

''(i) reported—

''(I) for the first 1000 customer selectors targeted, in bands of 200 starting with 1–200; and

''(II) for more than 1000 customer selectors targeted, the precise number of customer selectors targeted; and

''(ii) disaggregated by whether the order or directive was issued under section 105, 402, 501, 702, 703, or 704.''; and

(2) by redesignating paragraph (4) as paragraph (2).

(b) ADDITIONAL DISCLOSURES.—Such section is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following:

''(b) ADDITIONAL DISCLOSURES.—A person who publicly reports information under subsection (a) may also publicly report the following information, relating to the previous 180 days, using a semiannual report that indicates whether the person was or was not required to comply with an order, directive, or national security letter issued under each of sections 105, 402, 501, 702, 703, and 704 and the provisions listed in section 603(e)(3).''.

SEC. 16. ANNUAL PUBLICATION OF STATISTICS ON NUMBER OF PERSONS TARGETED OUTSIDE THE UNITED STATES UNDER CERTAIN FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 AUTHORITY.

Not less frequently than once each year, the Director of National Intelligence shall publish the following:

(1) A description of the subject matter of each of the certifications provided under subsection (g) of section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) in the last calendar year.

(2) Statistics revealing the number of persons targeted in the last calendar year under subsection (a) of such section, disaggregated by certification under which the person was targeted.

SEC. 17. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SEC. 18. PUBLICATION OF ESTIMATES REGARDING COMMUNICATIONS COLLECTED UNDER CERTAIN PROVISION OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) IN GENERAL.—Except as provided in subsection (b), not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall publish an estimate of—

(1) the number of United States persons whose communications are collected under section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a); or

(2) the number of communications collected under such section to which a party is a person inside the United States.

(b) IN CASE OF TECHNICAL IMPOSSIBILITY.—If the Director determines that publishing an estimate pursuant to subsection (a) is not technically possible—

(1) subsection (a) shall not apply; and

(2) the Director shall publish an assessment in unclassified form explaining such determination, but may submit a classified annex to the appropriate committees of Congress as necessary.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003));

(2) the Committee on the Judiciary of the Senate; and

(3) the Committee on the Judiciary of the House of Representatives.

SEC. 19. FOUR-YEAR EXTENSION OF FISA AMENDMENTS ACT OF 2008.

(a) EXTENSION.—Section 403(b) of the FISA Amendments Act of 2008 (Public Law 110–261) is amended—

(1) in paragraph (1) (50 U.S.C. 1881–1881g note), by striking ''December 31, 2017'' and inserting ''September 30, 2021''; and

(2) in paragraph (2) (18 U.S.C. 2511 note), in the material preceding subparagraph (A), by striking ''December 31, 2017'' and inserting ''September 30, 2021''.

(b) CONFORMING AMENDMENT.—The heading of section 404(b)(1) of the FISA Amendments Act of 2008 (Public Law 110–261; 50 U.S.C. 1801 note) is amended by striking ''DECEMBER 31, 2017'' and inserting ''SEPTEMBER 30, 2021''.

SA 1890. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, strike line 13 and all that follows through page 27, line 23, and insert the following:

SEC. 103. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b) (50 U.S.C. 1881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition; and''.

SA 1891. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2, strike line 14 and all that follows through page 15, line 6, and insert the following:

SEC. 101. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

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 QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States 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 query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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.

''(ii) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SA 1892. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(2), by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(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''; 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''.

SA 1893. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 19881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire communications known to be entirely domestic; and''.

SA 1894. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GROUNDS FOR DETERMINING INJURY IN FACT IN CIVIL ACTION RELATING TO SURVEILLANCE UNDER CERTAIN PROVISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 (50 U.S.C. 1881a), as amended by section 101, is further amended by adding at the end the following:

''(n) 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.''.

SA 1895. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike lines 14 through 24 and insert the following:

SEC. 106. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(6) COMPENSATION OF AMICI CURIAE AND TECHNICAL EXPERTS.—Such section, as so amended, is further amended by adding at the end the following:

''(13) COMPENSATION.—Notwithstanding any other provision of law, a court established under subsection (a) or (b) may compensate an amicus curiae appointed under paragraph (2) for assistance provided under such paragraph as the court considers appropriate and at such rate as the court considers appropriate.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SA 1896. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, 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 ''Uniting and Strengthening America by Reforming and Improving the Government's High-Tech Surveillance Act of 2017'' or the ''USA RIGHTS Act of 2017''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Clarification on prohibition on querying of collections of communications to conduct warrantless queries for the communications of United States persons and persons inside the United States.
Sec. 3. Prohibition on reverse targeting under certain authorities of the Foreign Intelligence Surveillance Act of 1978.
Sec. 4. Prohibition on acquisition, pursuant to certain FISA authorities to target certain persons outside the United States, of communications that do not include persons targeted under such authorities.
Sec. 5. Prohibition on acquisition of entirely domestic communications under authorities to target certain persons outside the United States.
Sec. 6. Limitation on use of information obtained under certain authority of Foreign Intelligence Surveillance Act of 1978 relating to United States persons.
Sec. 7. Reforms of the Privacy and Civil Liberties Oversight Board.
Sec. 8. Improved role in oversight of electronic surveillance by amici curiae appointed by courts under Foreign Intelligence Surveillance Act of 1978.
Sec. 9. Reforms to the Foreign Intelligence Surveillance Court.
Sec. 10. Study and report on diversity and representation on the FISA Court and the FISA Court of Review.
Sec. 11. Grounds for determining injury in fact in civil action relating to surveillance under certain provisions of Foreign Intelligence Surveillance Act of 1978.
Sec. 12. Clarification of applicability of requirement to declassify significant decisions of Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review.
Sec. 13. Clarification regarding treatment of information acquired under Foreign Intelligence Surveillance Act of 1978.
Sec. 14. Limitation on technical assistance from electronic communication service providers under the Foreign Intelligence Surveillance Act of 1978.
Sec. 15. Modification of authorities for public reporting by persons subject to nondisclosure requirement accompanying order under Foreign Intelligence Surveillance Act of 1978.
Sec. 16. Annual publication of statistics on number of persons targeted outside the United States under certain Foreign Intelligence Surveillance Act of 1978 authority.
Sec. 17. Repeal of nonapplicability to Federal Bureau of Investigation of certain reporting requirements under Foreign Intelligence Surveillance Act of 1978.
Sec. 18. Publication of estimates regarding communications collected under certain provision of Foreign Intelligence Surveillance Act of 1978.
Sec. 19. Four-year extension of FISA Amendments Act of 2008.

SEC. 2. CLARIFICATION ON PROHIBITION ON QUERYING OF COLLECTIONS OF COMMUNICATIONS TO CONDUCT WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.

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 QUERYING OF COLLECTIONS OF COMMUNICATIONS OF UNITED STATES PERSONS AND PERSONS INSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a

query of information acquired under this section in an effort to find communications of or about a particular United States person or a person inside the United States.

''(B) CONCURRENT AUTHORIZATION AND EXCEPTION FOR EMERGENCY SITUATIONS.—Subparagraph (A) shall not apply to a query for communications related to a particular United States person or person inside the United States if—

''(i) such United States person or person inside the United States 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 query has a reasonable belief that the life or safety of such United States person or person inside the United States is threatened and the information is sought for the purpose of assisting that person;

''(iii) such United States person or person in the United States is a corporation; or

''(iv) such United States person or person inside the United States has consented to the query.

''(C) QUERIES OF FEDERATED DATA SETS AND MIXED DATA.—If an officer or employee of the United States conducts a query of a data set, or of federated data sets, that includes any information acquired under this section, the system shall be configured not to return such information unless the officer or employee enters a code or other information indicating that—

''(i) the person associated with the search term is not a United States person or person inside the United States; or

''(ii) if the person associated with the search term is a United States person or person inside the United States, one or more of the conditions of subparagraph (B) are satisfied.

''(D) MATTERS RELATING TO EMERGENCY QUERIES.—

''(i) TREATMENT OF DENIALS.—In the event that a query for communications related to a particular United States person or a person inside the United States is conducted pursuant to an emergency authorization authorizing electronic surveillance or a physical search described in subsection (B)(i) and the application for such emergency authorization is denied, or in any other case in which the query has been conducted and no order is issued approving the query—

''(I) no information obtained or evidence derived from such query may 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

''(II) no information concerning any United States person acquired from such query may 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.

''(ii) ASSESSMENT OF COMPLIANCE.—The Attorney General shall assess compliance with the requirements under clause (i).''.

SEC. 3. PROHIBITION ON REVERSE TARGETING UNDER CERTAIN AUTHORITIES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a), as amended by section 2, is further amended—

(1) in subsection (b)(1)(B), as redesignated by section 2, by striking ''the purpose of such acquisition is to target'' and inserting ''a significant purpose of such acquisition is to acquire the communications of'';

(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''; 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. 4. PROHIBITION ON ACQUISITION, PURSUANT TO CERTAIN FISA AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES, OF COMMUNICATIONS THAT DO NOT INCLUDE PERSONS TARGETED UNDER SUCH AUTHORITIES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2, is amended—

(1) in subparagraph (D), as redesignated by section 2, by striking ''; and'' and inserting a semicolon;

(2) by redesignating subparagraph (E) as subparagraph (G); and

(3) by inserting after subparagraph (D) the following:

''(E) may not acquire a communication as to which no participant is a person who is targeted pursuant to the authorized acquisition;''.

SEC. 5. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b)(1) of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 2 and amended by section 4, is further amended by inserting after subparagraph (E), as added by section 4, the following:

''(F) may not acquire communications known to be entirely domestic; and''.

SEC. 6. LIMITATION ON USE OF INFORMATION OBTAINED UNDER CERTAIN AUTHORITY OF FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 RELATING TO UNITED STATES PERSONS.

Section 706(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881e(a)) is amended—

(1) by striking ''Information acquired'' and inserting the following:

''(1) IN GENERAL.—Information acquired''; and

(2) by adding at the end the following:

''(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No communication to or from, or information about, a person acquired under section 702 who is either a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

''(A) with the prior approval of the Attorney General; and

''(B) in a proceeding or investigation in which the information is directly related to and necessary to address a specific threat of—

''(i) terrorism (as defined in clauses (i) through (iii) of section 2332(g)(5)(B) of title 18, United States Code);

''(ii) espionage (as used in chapter 37 of title 18, United States Code);

''(iii) proliferation or use of a weapon of mass destruction (as defined in section 2332a(c) of title 18, United States Code);

''(iv) a cybersecurity threat from a foreign country;

''(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or

''(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.''.

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) 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—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

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

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

''(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. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(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 recipient 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

(B) by adding at the end the following:

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

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) 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.

(d) 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:

''(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).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

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

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

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

(B) in subsection (i)(1)—

(i) 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

(ii) 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

(C) 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''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

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

(ii) except as provided in paragraph (2), shall 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.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) 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)), (referred to in this clause as a ''current member'') may make an election to—

(aa) 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 section; or

(bb) 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 the 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 subclause (I)(aa) 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 such election.

(f) 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 shall 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)).

SEC. 8. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

SA 1897. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. PROHIBITION ON ACQUISITION OF ENTIRELY DOMESTIC COMMUNICATIONS UNDER AUTHORITIES TO TARGET CERTAIN PERSONS OUTSIDE THE UNITED STATES.

Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 19881a(b)) is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

''(5) may not acquire communications known to be entirely domestic; and''.

SA 1898. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike lines 14 through 24 and insert the following:

SEC. 106. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

(1) IN GENERAL.—Section 103(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(i)(1)) is amended by adding at the end the following: ''Any amicus curiae designated pursuant to this paragraph may raise any issue with the Court at any time.''.

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) REFERRAL FOR REVIEW.—

''(A) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

''(B) REFERRAL TO FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the court established under subsection (b) for review as the Court considers appropriate.

''(C) REFERRAL TO SUPREME COURT.—If the Court of Review appoints an amicus curiae under paragraph (2) to assist the Court of Review in the review of any matter presented to the Court of Review under this Act or a question of law that may affect resolution of a matter in controversy and the Court of Review makes a decision with respect to such matter or question of law, the Court of Review, in response to an application by the amicus curiae or any other individual designated under paragraph (1) may refer the decision to the Supreme Court for review as the Court of Review considers appropriate.

''(D) ANNUAL REPORT.—Not later than 60 days after the end of each calendar year, the Court and the Court of Review shall each publish, on their respective Internet websites, a report listing—

''(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

''(ii) the number of such applications for referral that were granted by the Court or the Court of Review, as applicable, during such calendar year.''.

(3) ASSISTANCE.—Section 103(i)(6) of such Act, as redesignated, is further amended to read as follows:

''(6) ASSISTANCE.—Any individual designated pursuant to paragraph (1) may raise a legal or technical issue or any other issue with the Court or the Court of Review at any time. If an amicus curiae is appointed under paragraph (2)(A)—

''(A) the court shall notify all other amicus curiae designated under paragraph (1) of such appointment;

''(B) the appointed amicus curiae may request, either directly or through the court, the assistance of the other amici curiae designated under paragraph (1); and

''(C) all amici curiae designated under paragraph (1) may provide input to the court whether or not such input was formally requested by the court or the appointed amicus curiae.''.

(4) ACCESS TO INFORMATION.—Section 103(i)(7) of such Act, as redesignated, is further amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''that the court'' and inserting the following: ''that—

''(I) the court''; and

(II) by striking ''and'' at the end and inserting the following: ''or

''(II) are cited by the Government in an application or case with respect to which an amicus curiae is assisting a court under this subsection;'';

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

''(ii) shall have access to an unredacted copy of each decision made by a court established under subsection (a) or (b) in which

the court decides a question of law, notwithstanding whether the decision is classified; and'';

(B) in subparagraph (B), by striking ''may'' and inserting ''shall''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''CLASSIFIED INFORMATION'' and inserting ''ACCESS TO INFORMATION''; and

(ii) by striking ''court may have access'' and inserting the following: ''court—

''(i) shall have access to unredacted copies of each opinion, order, transcript, pleading, or other document of the Court and the Court of Review; and

''(ii) may have access''.

(5) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:

''(12) PUBLIC NOTICE AND RECEIPT OF BRIEFS FROM THIRD PARTIES.—Whenever a court established under subsection (a) or (b) considers a novel a question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

''(A) by publishing on its Internet website each question of law that the court is considering; and

''(B) by accepting briefs from third parties relating to the question under consideration by the court.''.

(6) COMPENSATION OF AMICI CURIAE AND TECHNICAL EXPERTS.—Such section, as so amended, is further amended by adding at the end the following:

''(13) COMPENSATION.—Notwithstanding any other provision of law, a court established under subsection (a) or (b) may compensate an amicus curiae appointed under paragraph (2) for assistance provided under such paragraph as the court considers appropriate and at such rate as the court considers appropriate.''.

(b) PARTICIPATION OF AMICI CURIAE IN OVERSIGHT OF AUTHORIZATIONS FOR TARGETING OF CERTAIN PERSONS OUTSIDE THE UNITED STATES OTHER THAN UNITED STATES PERSONS.—

(1) IN GENERAL.—Section 702(i)(2) of such Act (50 U.S.C. 1881a(i)(2)) is amended—

(A) in subparagraph (B), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the indentation of the margin of such subclauses, as so redesignated, two ems to the right;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and adjusting the indentation of the margin of such clauses, as so redesignated, two ems to the right;

(C) by inserting before clause (i), as redesignated by subparagraph (B), the following:

''(A) IN GENERAL.—''; and

(D) by adding at the end the following:

''(B) PARTICIPATION BY AMICI CURIAE.—In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.''.

(2) SCHEDULE.—Section 702(i)(5)(A) of such Act is amended by striking ''at least 30 days prior to the expiration of such authorization'' and inserting ''such number of days before the expiration of such authorization as the Court considers necessary to comply with the requirements of paragraph (2)(B) or 30 days, whichever is greater''.

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—

(1) by striking ''Following'' and inserting the following:

''(1) IN GENERAL.—Following''; and

(2) by adding at the end the following:

''(2) PUBLIC NOTICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), whenever a court established under subsection (a) certifies a question of law for review under paragraph (1) of this subsection, the court shall publish on its Internet website—

''(i) a notice of the question of law to be reviewed; and

''(ii) briefs submitted by the parties, which may be redacted at the discretion of the court to protect sources, methods, and other classified information.

''(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.''.

SA 1899. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 32, strike line 16 and all that follows through page 33, line 21, and insert the following:

SEC. 7. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) 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—

(1) in subsection (c), by inserting ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears; and

(2) in subsection (d), ''and to conduct foreign intelligence activities'' after ''terrorism'' each place such term appears.

(b) SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

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

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

''(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. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

''(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 recipient 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

(B) by adding at the end the following:

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

(2) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8)(B) of title 5, United States Code, is amended, in the matter preceding clause (i), by striking ''or to the Inspector of an agency or another employee designated by the head of the agency to receive such disclosures'' and inserting ''the Inspector General of an agency, a supervisor in the employee's direct chain of command (up to and including the head of the employing agency), the Privacy and Civil Liberties Oversight Board, or an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures''.

(c) 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.

(d) 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:

''(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).''.

(e) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—

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

(A) in subsection (h)—

(i) in paragraph (1), by inserting ''full-time'' after ''4 additional''; and

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

(B) in subsection (i)(1)—

(i) 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

(ii) 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

(C) 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''.

(2) EFFECTIVE DATE; APPLICABILITY.—

(A) IN GENERAL.—The amendments made by paragraph (1)—

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

(ii) except as provided in paragraph (2), shall 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.

(B) EXCEPTIONS.—

(i) COMPENSATION CHANGES.—The amendments made by subparagraphs (B)(i) and (C) of paragraph (1) shall take effect on the first day of the first pay period beginning after the date of the enactment of this Act.

(ii) 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)), (referred to in this clause as a ''current member'') may make an election to—

(aa) 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 section; or

(bb) 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 the 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 subclause (I)(aa) 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 such election.

(f) MEETINGS.—Subsection (f) of such section is amended—

(1) by striking ''The Board shall'' and inserting ''The Board'';

(2) in paragraph (1) by striking ''make its'' and inserting ''shall make its''; and

(3) in paragraph (2)—

(A) by striking ''hold public'' and inserting ''shall hold public''; and

(B) by inserting before the period at the end the following: '', but may, notwithstanding section 552b of title 5, United States Code, meet or otherwise communicate in any number to confer or deliberate in a manner that is closed to the public''.

(g) 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 shall 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 1900. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 24, add the following:

SEC. 206. REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 603(d)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(d)(2)) is amended by striking ''(A) FEDERAL BUREAU'' and all that follows through ''Paragraph (3)(B) of'' and inserting ''Paragraph (3)(B)''.

SA 1901. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, after line 21, add the following:

SEC. 113. LIMITATION ON TECHNICAL ASSISTANCE FROM ELECTRONIC COMMUNICATION SERVICE PROVIDERS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 702(i)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(i)(1)), as redesignated by section 101(a)(1)(A), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking ''With respect to'' and inserting the following:

''(A) IN GENERAL.—Subject to subparagraph (B), in carrying out''; and

(3) by adding at the end the following:

''(B) LIMITATIONS.—The Attorney General or the Director of National Intelligence may not request assistance from an electronic communication service provider under subparagraph (A) without demonstrating, to the satisfaction of the Court, that the assistance sought—

''(i) is necessary;

''(ii) is narrowly tailored to the surveillance at issue; and

''(iii) would not pose an undue burden on the electronic communication service provider or its customers who are not an intended target of the surveillance.

''(C) COMPLIANCE.—An electronic communication service provider is not obligated to comply with a directive to provide assistance under this paragraph unless—

''(i) such assistance is a manner or method that has been explicitly approved by the Court; and

''(ii) the Court issues an order, which has been delivered to the provider, explicitly describing the assistance to be furnished by the provider that has been approved by the Court.''.

SA 1902. Mr. WYDEN (for himself and Mr. PAUL) submitted an amendment intended to be proposed by him to the bill S. 139, to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 22 and insert the following:

SEC. 111. CLARIFICATION REGARDING TREATMENT OF INFORMATION ACQUIRED UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) DERIVED DEFINED.—

(1) IN GENERAL.—Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801) is amended by adding at the end the following:

''(q) For the purposes of notification provisions of this Act, information or evidence is 'derived' from an electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition under this Act when the Government would not have originally possessed the information or evidence but for that electronic surveillance, physical search, use of a pen register or trap and trace device, production of tangible things, or acquisition, and regardless of any claim that the information or evidence is attenuated from the surveillance or search, would inevitably have been discovered, or was subsequently reobtained through other means.''.

(2) POLICIES AND GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General and the Director of National Intelligence shall publish the following:

(i) Policies concerning the application of subsection (q) of section 101 of such Act, as added by paragraph (1).

(ii) Guidance for all members of the intelligence community (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)) and all Federal agencies with law enforcement responsibilities concerning the application of such subsection.

(B) MODIFICATIONS.—Whenever the Attorney General and the Director modify a policy or guidance published under subparagraph (A), the Attorney General and the Director shall publish such modifications.

(b) USE OF INFORMATION ACQUIRED UNDER TITLE VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking '', except for the purposes of subsection (j) of such section''; and

(2) by amending subsection (b) to read as follows:

''(b) INFORMATION ACQUIRED UNDER SECTIONS 703–705.—Information acquired from an acquisition conducted under section 703, 704, or 705 shall be deemed to be information acquired from an electronic surveillance pursuant to title I for the purposes of section 106.''.

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROUNDS. Mr. President, I have 2 requests for committees to meet during