

113TH CONGRESS
1ST SESSION

H. R. 3361

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2013

Mr. SENSENBRENNER (for himself, Mr. CONYERS, Ms. LOFGREN, Mr. AMASH, Mr. NADLER, Mr. ROE of Tennessee, Ms. JACKSON LEE, Mr. FARR, Mr. POLIS, Ms. CHU, Ms. BASS, Mr. RICHMOND, Mr. THOMPSON of Mississippi, Ms. DELBENE, Mr. ROHRABACHER, Mr. MICA, Mr. YOUNG of Alaska, Mr. PETRI, Mr. SANFORD, Mr. WELCH, Mr. GRAYSON, Mr. DUNCAN of South Carolina, Ms. ESHOO, Mr. ROKITA, Mr. SMITH of Missouri, Mr. STEWART, Mr. AMODEI, Mr. YOHIO, Mr. JEFFRIES, Ms. NORTON, Mr. DEUTCH, Mr. SCOTT of Virginia, Mr. QUIGLEY, Mr. HUNTER, Mr. GARAMENDI, Mr. MULLIN, Mr. MASSIE, Ms. LEE of California, Ms. MOORE, Mr. DUFFY, Ms. GABBARD, Mr. COBLE, Mr. TERRY, Mr. GRAVES of Georgia, Mr. POCAN, Mr. O'ROURKE, Mr. LABRADOR, Mr. HUFFMAN, Mr. GOWDY, Mr. COFFMAN, Mr. MULVANEY, Mr. BURGESS, Mr. ISSA, Mr. MORAN, Mr. GIBSON, Mr. HONDA, Ms. SPEIER, Mr. JOHNSON of Georgia, Mr. GOHMERT, Mr. YODER, Mr. GENE GREEN of Texas, Mr. HUELSKAMP, Mr. CAPUANO, Mr. BENTIVOLIO, Mr. JONES, Mr. THOMPSON of Pennsylvania, Mr. BUCHANAN, Mr. LONG, Mr. ELLISON, Mr. DAINES, Mr. MICHAUD, Mr. LOWENTHAL, Mr. PEARCE, Mr. POE of Texas, Mr. BERA of California, Mr. GRIFFIN of Arkansas, Mr. BLUMENAUER, Mr. SCHWEIKERT, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select) and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

Sec. 306. Inspector general reviews of authorities.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT
REFORMS

Sec. 401. Office of the Special Advocate.

Sec. 402. Foreign Intelligence Surveillance Court disclosure of opinions.

Sec. 403. Preservation of rights.

TITLE V—NATIONAL SECURITY LETTER REFORMS

Sec. 501. National security letter authority.

Sec. 502. Limitations on disclosure of national security letters.

Sec. 503. Judicial review.

Sec. 504. Inspector general reports on national security letters.

Sec. 505. National security letter sunset.

Sec. 506. Technical and conforming amendments.

TITLE VI—FISA AND NATIONAL SECURITY LETTER
TRANSPARENCY REFORMS

Sec. 601. Third-party reporting on FISA orders and national security letters.

Sec. 602. Government reporting on FISA orders.

Sec. 603. Government reporting on national security letters.

TITLE VII—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
SUBPOENA AUTHORITY

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

1 **TITLE I—FISA BUSINESS**
2 **RECORDS REFORMS**
3 **SEC. 101. PRIVACY PROTECTIONS FOR BUSINESS RECORDS**
4 **ORDERS.**

5 (a) PRIVACY PROTECTIONS.—

6 (1) IN GENERAL.—Section 501(b) of the For-
7 eign Intelligence Surveillance Act of 1978 (50
8 U.S.C. 1861(b)) is amended—

9 (A) in paragraph (1)(B), by striking “and”
10 after the semicolon;

11 (B) in paragraph (2), by striking subpara-
12 graphs (A) and (B) and inserting the following
13 new subparagraphs:

1 “(A) a statement of facts showing that
2 there are reasonable grounds to believe that the
3 tangible things sought—

4 “(i) are relevant and material to an
5 authorized investigation (other than a
6 threat assessment) conducted in accord-
7 ance with subsection (a)(2) to—

8 “(I) obtain foreign intelligence
9 information not concerning a United
10 States person; or

11 “(II) protect against inter-
12 national terrorism or clandestine intel-
13 ligence activities; and

14 “(ii) pertain to—

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

17 “(II) the activities of a suspected
18 agent of a foreign power who is the
19 subject of such authorized investiga-
20 tion; or

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

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

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

3 “(3) if the applicant is seeking a nondisclosure
4 requirement described in subsection (d), shall in-
5 clude—

6 “(A) the time period during which the
7 Government believes the nondisclosure require-
8 ment should apply;

9 “(B) a statement of facts showing that
10 there are reasonable grounds to believe that dis-
11 closure of particular information about the ex-
12 istence or contents of the order requiring the
13 production of tangible things under this section
14 during such time period will result in—

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

17 “(ii) flight from investigation or pros-
18 ecution;

19 “(iii) destruction of or tampering with
20 evidence;

21 “(iv) intimidation of potential wit-
22 nesses;

23 “(v) interference with diplomatic rela-
24 tions;

1 “(vi) alerting a target, an associate of
2 a target, or the foreign power of which the
3 target is an agent, of the interest of the
4 Government in the target; or

5 “(vii) otherwise seriously endangering
6 the national security of the United States;
7 and

8 “(C) an explanation of how the nondisclo-
9 sure requirement is narrowly tailored to address
10 the specific harm identified under subparagraph
11 (B).”.

12 (2) ORDER.—Section 501(c) of the Foreign In-
13 telligence Surveillance Act of 1978 (50 U.S.C.
14 1861(c)) is amended—

15 (A) in paragraph (1)—

16 (i) by striking “subsections (a) and
17 (b)” and inserting “subsection (a) and
18 paragraphs (1) and (2) of subsection (b)
19 and that the proposed minimization proce-
20 dures meet the definition of minimization
21 procedures under subsection (g)”; and

22 (ii) by striking the last sentence and
23 inserting the following: “If the judge finds
24 that the requirements of subsection (b)(3)
25 have been met, such order shall include a

1 nondisclosure requirement, which may
2 apply for not longer than 1 year, unless
3 the facts justify a longer period of non-
4 disclosure, subject to the principles and
5 procedures described in subsection (d).”;

6 and

7 (B) in paragraph (2)—

8 (i) in subparagraph (C), by inserting
9 before the semicolon “, if applicable”;

10 (ii) in subparagraph (D), by striking
11 “and” at the end;

12 (iii) in subparagraph (E), by striking
13 the period at the end and inserting “;
14 and”; and

15 (iv) by adding at the end the following
16 new subparagraph:

17 “(F) shall direct that the minimization
18 procedures be followed.”.

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

22 “(d) NONDISCLOSURE.—

23 “(1) IN GENERAL.—No person who receives an
24 order entered under subsection (c) that contains a
25 nondisclosure requirement shall disclose to any per-

1 son the particular information specified in the non-
2 disclosure requirement during the time period to
3 which the requirement applies.

4 “(2) EXCEPTION.—

5 “(A) IN GENERAL.—A person who receives
6 an order entered under subsection (c) that con-
7 tains a nondisclosure requirement may disclose
8 information otherwise subject to any applicable
9 nondisclosure requirement to—

10 “(i) those persons to whom disclosure
11 is necessary to comply with the order;

12 “(ii) an attorney to obtain legal advice
13 or assistance regarding the order; or

14 “(iii) other persons as permitted by
15 the Director of the Federal Bureau of In-
16 vestigation or the designee of the Director.

17 “(B) APPLICATION.—A person to whom
18 disclosure is made under subparagraph (A)
19 shall be subject to the nondisclosure require-
20 ments applicable to a person to whom an order
21 is directed under this section in the same man-
22 ner as the person to whom the order is directed.

23 “(C) NOTICE.—Any person who discloses
24 to a person described in subparagraph (A) in-
25 formation otherwise subject to a nondisclosure

1 requirement shall notify the person of the appli-
2 cable nondisclosure requirement.

3 “(D) IDENTIFICATION OF DISCLOSURE RE-
4 CIPIENTS.—At the request of the Director of
5 the Federal Bureau of Investigation or the des-
6 ignee of the Director, any person making or in-
7 tending to make a disclosure under clause (i) or
8 (iii) of subparagraph (A) shall identify to the
9 Director or such designee the person to whom
10 such disclosure will be made or to whom such
11 disclosure was made prior to the request.

12 “(3) EXTENSION.—The Director of the Federal
13 Bureau of Investigation, or a designee of the Direc-
14 tor (whose rank shall be no lower than Assistant
15 Special Agent in Charge), may apply for renewals of
16 the prohibition on disclosure of particular informa-
17 tion about the existence or contents of an order re-
18 quiring the production of tangible things under this
19 section for additional periods of not longer than 1
20 year, unless the facts justify a longer period of non-
21 disclosure. A nondisclosure requirement shall be re-
22 newed if a court having jurisdiction under paragraph
23 (4) determines that the application meets the re-
24 quirements of subsection (b)(3).

1 “(4) JURISDICTION.—An application for a re-
2 newal under this subsection shall be made to—

3 “(A) a judge of the court established under
4 section 103(a); or

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

13 (4) MINIMIZATION.—Section 501(g) of the For-
14 eign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1861(g)) is amended—

16 (A) in paragraph (1), by striking “Not
17 later than” and all that follows and inserting
18 “‘At or before the end of the period of time for
19 the production of tangible things under an
20 order entered under this section or at any time
21 after the production of tangible things under an
22 order entered under this section, a judge may
23 assess compliance with the minimization proce-
24 dures required by such order by reviewing the
25 circumstances under which information con-

1 cerning United States persons was acquired, re-
2 tained, or disseminated.”; and

3 (B) in paragraph (2)(A), by inserting “ac-
4 quisition and” after “to minimize the”.

5 (5) CONFORMING AMENDMENT.—Section
6 501(f)(1)(B) of the Foreign Intelligence Surveillance
7 Act of 1978 (50 U.S.C. 1861(f)(1)(B)) is amended
8 by striking “an order imposed under subsection (d)”
9 and inserting “a nondisclosure requirement imposed
10 in connection with a production order”.

11 (b) JUDICIAL REVIEW.—Section 501(f)(2) of the
12 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
13 1861(f)(2)) is amended—

14 (1) in subparagraph (A)(i)—

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

19 (B) by striking the second sentence;

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

22 “(C) A judge considering a petition to modify or set
23 aside a nondisclosure order shall grant such petition un-
24 less the court determines that—

1 “(i) there is reason to believe that disclosure of
2 the information subject to the nondisclosure require-
3 ment during the time period in which such require-
4 ment is in effect will result in—

5 “(I) endangering the life or physical safety
6 of any person;

7 “(II) flight from investigation or prosecu-
8 tion;

9 “(III) destruction of or tampering with evi-
10 dence;

11 “(IV) intimidation of potential witnesses;

12 “(V) interference with diplomatic relations;

13 “(VI) alerting a target, an associate of a
14 target, or the foreign power of which the target
15 is an agent, of the interest of the Government
16 in the target; or

17 “(VII) otherwise seriously endangering the
18 national security of the United States; and

19 “(ii) the nondisclosure requirement is narrowly
20 tailored to address the specific harm identified under
21 clause (i).”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(E) If a judge denies a petition to modify or set
25 aside a nondisclosure order under this paragraph, no per-

1 son may file another petition to modify or set aside such
2 nondisclosure order until the date that is one year after
3 the date on which such judge issues the denial of such
4 petition.”.

5 (c) EMERGENCY AUTHORITY FOR ACCESS TO CALL
6 DETAIL RECORDS.—

7 (1) IN GENERAL.—Title V of the Foreign Intel-
8 ligence Surveillance Act of 1978 (50 U.S.C. 1861 et
9 seq.) is amended—

10 (A) by redesignating section 502 as section
11 503; and

12 (B) by inserting after section 501 the fol-
13 lowing new section:

14 **“SEC. 502. EMERGENCY AUTHORITY FOR ACCESS TO CALL**
15 **DETAIL RECORDS.**

16 “(a) IN GENERAL.—Notwithstanding any other pro-
17 vision of this title, the Attorney General may require the
18 production of call detail records by the provider of a wire
19 or electronic communication service on an emergency basis
20 if—

21 “(1) such records—

22 “(A) are relevant and material to an au-
23 thorized investigation (other than a threat as-
24 sessment) conducted in accordance with section
25 501(a)(2) to—

1 “(i) obtain foreign intelligence infor-
2 mation not concerning a United States
3 person; or

4 “(ii) protect against international ter-
5 rorism or clandestine intelligence activities;
6 and

7 “(B) pertain to—

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

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

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

16 “(2) the Attorney General reasonably deter-
17 mines that—

18 “(A) an emergency requires the production
19 of such records before an order requiring such
20 production can with due diligence be obtained
21 under section 501; and

22 “(B) the factual basis for issuance of an
23 order under section 501 to require the produc-
24 tion of such records exists;

1 “(3) a judge referred to in section 501(b)(1) is
2 informed by the Attorney General or a designee of
3 the Attorney General at the time of the required
4 production of such records that the decision has
5 been made to require such production on an emer-
6 gency basis; and

7 “(4) an application in accordance with section
8 501 is made to such judge as soon as practicable,
9 but not more than 7 days after the date on which
10 the Attorney General requires the production of such
11 records under this section.

12 “(b) TERMINATION OF AUTHORITY.—

13 “(1) TERMINATION.—In the absence of an
14 order under section 501 approving the production of
15 call detail records under subsection (a), the author-
16 ity to require the production of such records shall
17 terminate at the earlier of—

18 “(A) when the information sought is ob-
19 tained;

20 “(B) when the application for the order is
21 denied under section 501; or

22 “(C) 7 days after the time of the author-
23 ization by the Attorney General.

24 “(2) USE OF INFORMATION.—If an application
25 for an order under section 501 for the production of

1 call detail records required to be produced pursuant
2 to subsection (a) is denied, or in any other case in
3 which the emergency production of call detail
4 records under this section is terminated and no
5 order under section 501 is issued approving the re-
6 quired production of such records, no information
7 obtained or evidence derived from such records shall
8 be received in evidence or otherwise disclosed in any
9 trial, hearing, or other proceeding in or before any
10 court, grand jury, department, office, agency, regu-
11 latory body, legislative committee, or other authority
12 of the United States, a State, or political subdivision
13 thereof, and no information concerning any United
14 States person acquired from such records shall sub-
15 sequently be used or disclosed in any other manner
16 by Federal officers or employees without the consent
17 of such person, except with the approval of the At-
18 torney General if the information indicates a threat
19 of death or serious bodily harm to any person.

20 “(c) REPORT.—The Attorney General shall annually
21 submit to the Permanent Select Committee on Intelligence
22 and the Committee on the Judiciary of the House of Rep-
23 resentatives and the Select Committee on Intelligence and
24 the Committee on the Judiciary of the Senate a report
25 containing the number of times the authority under this

1 section was exercised during the calendar year covered by
2 such report.

3 “(d) CALL DETAIL RECORDS DEFINED.—In this sec-
4 tion, the term ‘call detail records’—

5 “(1) means session identifying information (in-
6 cluding originating or terminating telephone num-
7 ber, International Mobile Subscriber Identity num-
8 ber, or International Mobile Station Equipment
9 Identity number), telephone calling card numbers, or
10 the time or duration of a call; and

11 “(2) does not include—

12 “(A) the contents of any communication
13 (as defined in section 2510(8) of title 18,
14 United States Code);

15 “(B) the name, address, or financial infor-
16 mation of a subscriber or customer; or

17 “(C) cell site location information.”.

18 (2) TABLE OF CONTENTS AMENDMENT.—The
19 table of contents in the first section of the Foreign
20 Intelligence Surveillance Act of 1978 is amended by
21 striking the item relating to section 502 and insert-
22 ing the following new items:

“502. Emergency authority for access to call detail records.

“503. Congressional oversight.”.

23 (3) CONFORMING AMENDMENT.—Section
24 102(b) of the USA PATRIOT Improvement and Re-

1 authorization Act of 2005 (50 U.S.C. 1805 note) is
2 amended by striking “sections 501, 502, and” and
3 inserting “title V and section”.

4 **SEC. 102. INSPECTOR GENERAL REPORTS ON BUSINESS**
5 **RECORDS ORDERS.**

6 Section 106A of the USA PATRIOT Improvement
7 and Reauthorization Act of 2005 (Public Law 109–177;
8 120 Stat. 200) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1), by inserting “and
11 calendar years 2010 through 2013” after
12 “2006”;

13 (B) by striking paragraphs (2) and (3);

14 (C) by redesignating paragraphs (4) and
15 (5) as paragraphs (2) and (3), respectively; and

16 (D) in paragraph (3) (as so redesign-
17 nated)—

18 (i) by striking subparagraph (C) and
19 inserting the following new subparagraph:

20 “(C) with respect to calendar years 2010
21 through 2013, an examination of the minimiza-
22 tion procedures used in relation to orders under
23 section 501 of the Foreign Intelligence Surveil-
24 lance Act of 1978 (50 U.S.C. 1861) and wheth-
25 er the minimization procedures adequately pro-

1 tect the constitutional rights of United States
2 persons;” and

3 (ii) in subparagraph (D), by striking
4 “(as such term is defined in section 3(4) of
5 the National Security Act of 1947 (50
6 U.S.C. 401a(4))”;

7 (2) in subsection (c), by adding at the end the
8 following new paragraph:

9 “(3) CALENDAR YEARS 2010 THROUGH 2013.—
10 Not later than December 31, 2014, the Inspector
11 General of the Department of Justice shall submit
12 to the Committee on the Judiciary and the Select
13 Committee on Intelligence of the Senate and the
14 Committee on the Judiciary and the Permanent Se-
15 lect Committee on Intelligence of the House of Rep-
16 resentatives a report containing the results of the
17 audit conducted under subsection (a) for calendar
18 years 2010 through 2013.”;

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

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

23 “(d) INTELLIGENCE ASSESSMENT.—

24 “(1) IN GENERAL.—For the period beginning
25 on January 1, 2010, and ending on December 31,

1 2013, the Inspector General of the Intelligence Com-
2 munity shall—

3 “(A) assess the importance of the informa-
4 tion acquired under title V of the Foreign Intel-
5 ligence Surveillance Act of 1978 (50 U.S.C.
6 1861 et seq.) to the activities of the intelligence
7 community;

8 “(B) examine the manner in which that in-
9 formation was collected, retained, analyzed, and
10 disseminated by the intelligence community;

11 “(C) describe any noteworthy facts or cir-
12 cumstances relating to orders under such title;

13 “(D) examine any minimization procedures
14 used by elements of the intelligence community
15 under such title and whether the minimization
16 procedures adequately protect the constitutional
17 rights of United States persons; and

18 “(E) examine any minimization procedures
19 proposed by an element of the intelligence com-
20 munity under such title that were modified or
21 denied by the court established under section
22 103(a) of such Act (50 U.S.C. 1803(a)).

23 “(2) SUBMISSION DATE FOR ASSESSMENT.—

24 Not later than December 31, 2014, the Inspector
25 General of the Intelligence Community shall submit

1 to the Committee on the Judiciary and the Select
2 Committee on Intelligence of the Senate and the
3 Committee on the Judiciary and the Permanent Se-
4 lect Committee on Intelligence of the House of Rep-
5 resentatives a report containing the results of the
6 assessment for calendar years 2010 through 2013.”;

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

9 (A) in paragraph (1)—

10 (i) by striking “a report under sub-
11 section (c)(1) or (c)(2)” and inserting “any
12 report under subsection (c) or (d)”;

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

24 (B) in paragraph (2), by striking “the re-
25 ports submitted under subsection (c)(1) and

1 (c)(2)” and inserting “any report submitted
2 under subsection (c) or (d)”;

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

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

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

11 (7) by adding at the end the following new sub-
12 section:

13 “(g) DEFINITIONS.—In this section:

14 “(1) INTELLIGENCE COMMUNITY.—The term
15 ‘intelligence community’ has the meaning given that
16 term in section 3 of the National Security Act of
17 1947 (50 U.S.C. 3003).

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

1 **TITLE II—FISA PEN REGISTER**
2 **AND TRAP AND TRACE DE-**
3 **VICE REFORMS**

4 **SEC. 201. PRIVACY PROTECTIONS FOR PEN REGISTERS**
5 **AND TRAP AND TRACE DEVICES.**

6 (a) APPLICATION.—Section 402(c) of the Foreign In-
7 telligence Surveillance Act of 1978 (50 U.S.C. 1842(c))
8 is amended—

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

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

13 “(2) a statement of facts showing that there
14 are reasonable grounds to believe that the informa-
15 tion sought—

16 “(A) is relevant and material to an author-
17 ized investigation to obtain foreign intelligence
18 information not concerning a United States per-
19 son or to protect against international terrorism
20 or clandestine intelligence activities (other than
21 a threat assessment), provided that such inves-
22 tigation of a United States person is not con-
23 ducted solely upon the basis of activities pro-
24 tected by the First Amendment to the Constitu-
25 tion of the United States; and

1 “(B) pertain to—

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

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

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

10 “(3) a statement of proposed minimization pro-
11 cedures.”.

12 (b) MINIMIZATION.—

13 (1) DEFINITION.—Section 401 of the Foreign
14 Intelligence Surveillance Act of 1978 (50 U.S.C.
15 1841) is amended by adding at the end the following
16 new paragraph:

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

19 “(A) specific procedures that are reason-
20 ably designed in light of the purpose and tech-
21 nique of an order for the installation and use
22 of a pen register or trap and trace device, to
23 minimize the acquisition and retention, and pro-
24 hibit the dissemination, of nonpublicly available
25 information concerning unconsenting United

1 States persons consistent with the need of the
2 United States to obtain, produce, and dissemi-
3 nate foreign intelligence information;

4 “(B) procedures that require that nonpub-
5 licly available information, which is not foreign
6 intelligence information, as defined in section
7 101(e)(1), shall not be disseminated in a man-
8 ner that identifies any United States person,
9 without such person’s consent, unless such per-
10 son’s identity is necessary to understand foreign
11 intelligence information or assess its impor-
12 tance; and

13 “(C) notwithstanding subparagraphs (A)
14 and (B), procedures that allow for the retention
15 and dissemination of information that is evi-
16 dence of a crime which has been, is being, or
17 is about to be committed and that is to be re-
18 tained or disseminated for law enforcement pur-
19 poses.”.

20 (2) PROCEDURES REQUIRED.—Section 402 of
21 the Foreign Intelligence Surveillance Act of 1978
22 (50 U.S.C. 1842) is amended—

23 (A) in subsection (d)—

24 (i) in paragraph (1), by inserting

25 “and that the proposed minimization pro-

1 cedures meet the definition of minimization
2 procedures under this title” before the pe-
3 riod at the end; and

4 (ii) in paragraph (2)(B)—

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

7 (II) by adding at the end the fol-
8 lowing new clause:

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

11 (B) by adding at the end the following new
12 subsection:

13 “(h) At or before the end of the period of time for
14 which the installation and use of a pen register or trap
15 and trace device is approved under an order or an exten-
16 sion under this section, the judge may assess compliance
17 with the minimization procedures by reviewing the cir-
18 cumstances under which information concerning United
19 States persons was acquired, retained, or disseminated.”.

20 (3) EMERGENCIES.—Section 403 of the For-
21 eign Intelligence Surveillance Act of 1978 (50
22 U.S.C. 1843) is amended—

23 (A) by redesignating subsection (c) as sub-
24 section (d); and

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

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

8 (4) USE OF INFORMATION.—Section 405(a)(1)
9 of the Foreign Intelligence Surveillance Act of 1978
10 (50 U.S.C. 1845(a)(1)) is amended by inserting
11 “and the minimization procedures required under
12 the order approving such pen register or trap and
13 trace device” after “of this section”.

14 (c) TRANSITION PROCEDURES.—

15 (1) ORDERS IN EFFECT.—Notwithstanding the
16 amendments made by this section, an order entered
17 under section 402(d)(1) of the Foreign Intelligence
18 Surveillance Act of 1978 (50 U.S.C. 1842(d)(1))
19 that is in effect on the effective date of the amend-
20 ments made by this section shall remain in effect
21 until the expiration of the order.

22 (2) EXTENSIONS.—A request for an extension
23 of an order referred to in paragraph (1) shall be
24 subject to the requirements of the Foreign Intel-

1 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
2 seq.), as amended by this Act.

3 **SEC. 202. INSPECTOR GENERAL REPORTS ON PEN REG-**
4 **ISTERS AND TRAP AND TRACE DEVICES.**

5 (a) AUDITS.—The Inspector General of the Depart-
6 ment of Justice shall perform comprehensive audits of the
7 effectiveness and use, including any improper or illegal
8 use, of pen registers and trap and trace devices under title
9 IV of the Foreign Intelligence Surveillance Act of 1978
10 (50 U.S.C. 1841 et seq.) during the period beginning on
11 January 1, 2010, and ending on December 31, 2013.

12 (b) REQUIREMENTS.—The audits required under
13 subsection (a) shall include—

14 (1) an examination of the use of pen registers
15 and trap and trace devices under such title for cal-
16 endar years 2010 through 2013;

17 (2) an examination of the installation and use
18 of a pen register or trap and trace device on emer-
19 gency bases under section 403 of such Act (50
20 U.S.C. 1843);

21 (3) an examination of any noteworthy facts or
22 circumstances relating to the use of a pen register
23 or trap and trace device under such title, including
24 any improper or illegal use of the authority provided
25 under such title; and

1 (4) an examination of the effectiveness of the
2 authority under such title as an investigative tool,
3 including—

4 (A) the importance of the information ac-
5 quired to the intelligence activities of the Fed-
6 eral Bureau of Investigation;

7 (B) the manner in which the information is
8 collected, retained, analyzed, and disseminated
9 by the Federal Bureau of Investigation, includ-
10 ing any direct access to the information pro-
11 vided to any other department, agency, or in-
12 strumentality of Federal, State, local, or tribal
13 governments or any private sector entity;

14 (C) whether, and how often, the Federal
15 Bureau of Investigation used information ac-
16 quired under a pen register or trap and trace
17 device under such title to produce an analytical
18 intelligence product for distribution within the
19 Federal Bureau of Investigation, to the intel-
20 ligence community, or to another department,
21 agency, or instrumentality of Federal, State,
22 local, or tribal governments; and

23 (D) whether, and how often, the Federal
24 Bureau of Investigation provided information
25 acquired under a pen register or trap and trace

1 device under such title to law enforcement au-
2 thorities for use in criminal proceedings.

3 (c) REPORT.—Not later than December 31, 2014, the
4 Inspector General of the Department of Justice shall sub-
5 mit to the Committee on the Judiciary and the Select
6 Committee on Intelligence of the Senate and the Com-
7 mittee on the Judiciary and the Permanent Select Com-
8 mittee on Intelligence of the House of Representatives a
9 report containing the results of the audits conducted
10 under subsection (a) for calendar years 2010 through
11 2013.

12 (d) INTELLIGENCE ASSESSMENT.—

13 (1) IN GENERAL.—For the period beginning
14 January 1, 2010, and ending on December 31,
15 2013, the Inspector General of the Intelligence Com-
16 munity shall—

17 (A) assess the importance of the informa-
18 tion to the activities of the intelligence commu-
19 nity;

20 (B) examine the manner in which the in-
21 formation was collected, retained, analyzed, and
22 disseminated;

23 (C) describe any noteworthy facts or cir-
24 cumstances relating to orders under title IV of

1 the Foreign Intelligence Surveillance Act of
2 1978 (50 U.S.C. 1841 et seq.); and

3 (D) examine any minimization procedures
4 used by elements of the intelligence community
5 in relation to pen registers and trap and trace
6 devices under title IV of the Foreign Intel-
7 ligence Surveillance Act of 1978 (50 U.S.C.
8 1841 et seq.) and whether the minimization
9 procedures adequately protect the constitutional
10 rights of United States persons.

11 (2) SUBMISSION DATES FOR ASSESSMENT.—

12 Not later than December 31, 2014, the Inspector
13 General of the Intelligence Community shall submit
14 to the Committee on the Judiciary and the Select
15 Committee on Intelligence of the Senate and the
16 Committee on the Judiciary and the Permanent Se-
17 lect Committee on Intelligence of the House of Rep-
18 resentatives a report containing the results of the
19 assessment for calendar years 2010 through 2013.

20 (e) PRIOR NOTICE TO ATTORNEY GENERAL AND DI-
21 RECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

22 (1) NOTICE.—Not later than 30 days before the
23 submission of any report under subsection (c) or (d),
24 the Inspector General of the Department of Justice
25 and the Inspector General of the Intelligence Com-

1 munity shall provide the report to the Attorney Gen-
2 eral and the Director of National Intelligence.

3 (2) COMMENTS.—The Attorney General or the
4 Director of National Intelligence may provide such
5 comments to be included in any report submitted
6 under subsection (c) or (d) as the Attorney General
7 or the Director of National Intelligence may consider
8 necessary.

9 (f) UNCLASSIFIED FORM.—Each report submitted
10 under subsection (c) and any comments included in that
11 report under subsection (e)(2) shall be in unclassified
12 form, but may include a classified annex.

13 (g) DEFINITIONS.—In this section—

14 (1) the terms “Attorney General”, “foreign in-
15 telligence information”, and “United States person”
16 have the meanings given those terms in section 101
17 of the Foreign Intelligence Surveillance Act of 1978
18 (50 U.S.C. 1801);

19 (2) the term “intelligence community” has the
20 meaning given that term in section 3 of the National
21 Security Act of 1947 (50 U.S.C. 3003);

22 (3) the term “minimization procedures” has the
23 meaning given that term in section 401 of the For-
24 eign Intelligence Surveillance Act of 1978 (50
25 U.S.C. 1841), as amended by this Act; and

1 (4) the terms “pen register” and “trap and
2 trace device” have the meanings given those terms
3 in section 3127 of title 18, United States Code.

4 **TITLE III—FISA ACQUISITIONS**
5 **TARGETING PERSONS OUT-**
6 **SIDE THE UNITED STATES RE-**
7 **FORMS**

8 **SEC. 301. CLARIFICATION ON PROHIBITION ON SEARCHING**
9 **OF COLLECTIONS OF COMMUNICATIONS TO**
10 **CONDUCT WARRANTLESS SEARCHES FOR**
11 **THE COMMUNICATIONS OF UNITED STATES**
12 **PERSONS.**

13 Section 702(b) of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

15 (1) by redesignating paragraphs (1) through
16 (5) as subparagraphs (A) through (E), respectively,
17 and indenting such subparagraphs, as so redesign-
18 ated, an additional two ems from the left margin;

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

21 “(1) IN GENERAL.—An acquisition”; and

22 (3) by adding at the end the following new
23 paragraph:

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

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), no officer or employee of the
6 United States may conduct a search of a collec-
7 tion of communications acquired under this sec-
8 tion in an effort to find communications of a
9 particular United States person (other than a
10 corporation).

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

16 “(i) such United States person is the
17 subject of an order or emergency author-
18 ization authorizing electronic surveillance
19 or physical search under section 105, 304,
20 703, 704, or 705, or title 18, United
21 States Code, for the effective period of that
22 order;

23 “(ii) the entity carrying out the
24 search has a reasonable belief that the life
25 or safety of such United States person is

1 threatened and the information is sought
2 for the purpose of assisting that person; or
3 “(iii) such United States person has
4 consented to the search.”.

5 **SEC. 302. PROTECTION AGAINST COLLECTION OF WHOLLY**
6 **DOMESTIC COMMUNICATIONS.**

7 (a) IN GENERAL.—Section 702 of the Foreign Intel-
8 ligence Surveillance Act of 1978 (50 U.S.C. 1881a) is
9 amended—

10 (1) in subsection (d)(1)—

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

13 (B) in subparagraph (B), by striking the
14 period and inserting “; and”; and

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

17 “(C) limit the acquisition of the contents
18 of any communication to those communica-
19 tions—

20 “(i) to which any party is a target of
21 the acquisition; or

22 “(ii) that contain an account identifier
23 of a target of an acquisition, only if such
24 communications are acquired to protect
25 against international terrorism or the

1 international proliferation of weapons of
2 mass destruction.”; and

3 (2) in subsection (i)(2)(B)—

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

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

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

10 “(iii) limit the acquisition of the con-
11 tents of any communication to those com-
12 munications—

13 “(I) to which any party is a tar-
14 get of the acquisition; or

15 “(II) that contain an account
16 identifier of the target of an acquisi-
17 tion, only if such communications are
18 acquired to protect against inter-
19 national terrorism or the international
20 proliferation of weapons of mass de-
21 struction.”.

22 (b) CONFORMING AMENDMENT.—Section 701 of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1881) is amended—

25 (1) in subsection (a)—

1 (A) by inserting “‘international ter-
2 rorism’,” after “‘foreign power’,”; and

3 (B) by striking “and ‘United States per-
4 son’” and inserting “‘United States person’,
5 and ‘weapon of mass destruction’”; and

6 (2) in subsection (b)—

7 (A) by redesignating paragraphs (1)
8 through (5) as paragraphs (2) through (6), re-
9 spectively; and

10 (B) by inserting before paragraph (2), as
11 so redesignated, the following new paragraph:

12 “(1) ACCOUNT IDENTIFIER.—The term ‘ac-
13 count identifier’ means a telephone or instrument
14 number, other subscriber number, email address, or
15 username used to uniquely identify an account.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 subsections (a) and (b) shall take effect on the date that
18 is 180 days after the date of the enactment of this Act.

19 **SEC. 303. PROHIBITION ON REVERSE TARGETING.**

20 Section 702(b)(1)(B) of the Foreign Intelligence Sur-
21 veillance Act of 1978 (50 U.S.C. 1881a), as redesignated
22 by section 301(1) of this Act, is amended by striking “the
23 purpose” and inserting “a significant purpose”.

1 **SEC. 304. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
2 **FORMATION.**

3 Section 702(i)(3) of the Foreign Intelligence Surveil-
4 lance Act of 1978 (50 U.S.C. 1881a(i)(3)) is amended by
5 striking subparagraph (B) and inserting the following new
6 subparagraph:

7 “(B) CORRECTION OF DEFICIENCIES.—

8 “(i) IN GENERAL.—If the Court finds
9 that a certification required by subsection
10 (g) does not contain all of the required ele-
11 ments, or that the procedures required by
12 subsections (d) and (e) are not consistent
13 with the requirements of those subsections
14 or the Fourth Amendment to the Constitu-
15 tion of the United States, the Court shall
16 issue an order directing the Government
17 to, at the Government’s election and to the
18 extent required by the order of the
19 Court—

20 “(I) correct any deficiency identi-
21 fied by the order of the Court not
22 later than 30 days after the date on
23 which the Court issues the order; or

24 “(II) cease, or not begin, the im-
25 plementation of the authorization for

1 which such certification was sub-
2 mitted.

3 “(ii) LIMITATION ON USE OF INFOR-
4 MATION.—

5 “(I) IN GENERAL.—Except as
6 provided in subclause (II), no infor-
7 mation obtained or evidence derived
8 from an acquisition pursuant to a cer-
9 tification or targeting or minimization
10 procedures subject to an order under
11 clause (i) concerning any United
12 States person shall be received in evi-
13 dence or otherwise disclosed in any
14 trial, hearing, or other proceeding in
15 or before any court, grand jury, de-
16 partment, office, agency, regulatory
17 body, legislative committee, or other
18 authority of the United States, a
19 State, or political subdivision thereof,
20 and no information concerning any
21 United States person acquired from
22 the acquisition shall subsequently be
23 used or disclosed in any other manner
24 by Federal officers or employees with-
25 out the consent of the United States

1 person, except with the approval of
2 the Attorney General if the informa-
3 tion indicates a threat of death or se-
4 rious bodily harm to any person.

5 “(II) EXCEPTION.—If the Gov-
6 ernment corrects any deficiency iden-
7 tified by the order of the Court under
8 clause (i), the Court may permit the
9 use or disclosure of information ac-
10 quired before the date of the correc-
11 tion under such minimization proce-
12 dures as the Court shall establish for
13 purposes of this clause.”.

14 **SEC. 305. MODIFICATION OF FISA AMENDMENTS ACT OF**
15 **2008 SUNSET.**

16 (a) MODIFICATION.—Section 403(b)(1) of the FISA
17 Amendments Act of 2008 (Public Law 110–261; 50
18 U.S.C. 1881 note) is amended by striking “December 31,
19 2017” and inserting “June 1, 2015”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
21 Section 403(b)(2) of such Act (Public Law 110–261; 122
22 Stat. 2474) is amended by striking “December 31, 2017”
23 and inserting “June 1, 2015”.

24 (c) ORDERS IN EFFECT.—Section 404(b)(1) of such
25 Act (Public Law 110–261; 50 U.S.C. 1801 note) is

1 amended in the paragraph heading by striking “DECEM-
2 BER 31, 2017” and inserting “JUNE 1, 2015”.

3 **SEC. 306. INSPECTOR GENERAL REVIEWS OF AUTHORITIES.**

4 (a) AGENCY ASSESSMENTS.—Section 702(l)(2) of the
5 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
6 1881a(l)(2)) is amended—

7 (1) in the matter preceding subparagraph (A),
8 by striking “authorized to acquire foreign intel-
9 ligence information under subsection (a)” and in-
10 sserting “subject to the targeting or minimization
11 procedures approved under this section”;

12 (2) in subparagraph (C), by inserting “United
13 States persons or” after “later determined to be”;
14 and

15 (3) in subparagraph (D)—

16 (A) in the matter preceding clause (i), by
17 striking “such review” and inserting “review
18 conducted under this paragraph”;

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

21 (C) by redesignating clause (iii) as clause
22 (iv); and

23 (D) by inserting after clause (ii) the fol-
24 lowing new clause:

1 “(iii) the Inspector General of the In-
2 telligence Community; and”.

3 (b) INSPECTOR GENERAL OF THE INTELLIGENCE
4 COMMUNITY REVIEW.—

5 (1) RECURRING REVIEWS.—Section 702(l) of
6 the Foreign Intelligence Surveillance Act of 1978
7 (50 U.S.C. 1881a(l)) is amended—

8 (A) by redesignating paragraph (3) as
9 paragraph (4); and

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

12 “(3) INSPECTOR GENERAL OF THE INTEL-
13 LIGENCE COMMUNITY REVIEW.—

14 “(A) IN GENERAL.—The Inspector General
15 of the Intelligence Community is authorized to
16 review the acquisition, use, and dissemination
17 of information acquired under subsection (a) to
18 review compliance with the targeting and mini-
19 mization procedures adopted in accordance with
20 subsections (d) and (e) and the guidelines
21 adopted in accordance with subsection (f), and
22 in order to conduct the review required under
23 subparagraph (B).

24 “(B) MANDATORY REVIEW.—The Inspec-
25 tor General of the Intelligence Community shall

1 review the procedures and guidelines developed
2 by the elements of the intelligence community
3 to implement this section, with respect to the
4 protection of the privacy rights of United States
5 persons, including—

6 “(i) an evaluation of the limitations
7 outlined in subsection (b), the procedures
8 approved in accordance with subsections
9 (d) and (e), and the guidelines adopted in
10 accordance with subsection (f), with re-
11 spect to the protection of the privacy rights
12 of United States persons; and

13 “(ii) an evaluation of the cir-
14 cumstances under which the contents of
15 communications acquired under subsection
16 (a) may be searched in order to review the
17 communications of particular United
18 States persons.

19 “(C) CONSIDERATION OF OTHER REVIEWS
20 AND ASSESSMENTS.—In conducting a review
21 under subparagraph (B), the Inspector General
22 of the Intelligence Community shall take into
23 consideration, to the extent relevant and appro-
24 priate, any reviews or assessments that have

1 been completed or are being undertaken under
2 this section.

3 “(D) PUBLIC REPORTING OF FINDINGS
4 AND CONCLUSIONS.—In a manner consistent
5 with the protection of the national security of
6 the United States, and in unclassified form, the
7 Inspector General of the Intelligence Commu-
8 nity shall make publicly available a summary of
9 the findings and conclusions of the review con-
10 ducted under subparagraph (B).”.

11 (2) REPORT.—Not later than December 31,
12 2014, the Inspector General of the Intelligence Com-
13 munity shall submit a report regarding the reviews
14 conducted under paragraph (3) of section 702(l) of
15 the Foreign Intelligence Surveillance Act of 1978
16 (50 U.S.C. 1881a(l)), as amended by paragraph (1)
17 of this subsection, to—

18 (A) the Attorney General;

19 (B) the Director of National Intelligence;

20 and

21 (C) consistent with the Rules of the House
22 of Representatives, the Standing Rules of the
23 Senate, and Senate Resolution 400 of the 94th
24 Congress or any successor Senate resolution—

1 (i) the congressional intelligence com-
2 mittees; and

3 (ii) the Committee on the Judiciary of
4 the Senate and the Committee on the Ju-
5 diciary of the House of Representatives.

6 (c) ANNUAL REVIEWS.—Section 702(l)(4)(A) of the
7 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
8 1881a(l)(4)(A)), as redesignated by subsection (b)(1), is
9 amended—

10 (1) in the matter preceding clause (i)—

11 (A) in the first sentence—

12 (i) by striking “conducting an acquisi-
13 tion authorized under subsection (a)” and
14 inserting “subject to targeting or mini-
15 mization procedures approved under this
16 section”; and

17 (ii) by striking “the acquisition” and
18 inserting “acquisitions under subsection
19 (a)”; and

20 (B) in the second sentence, by striking
21 “acquisitions” and inserting “information ob-
22 tained through an acquisition”; and

23 (2) in clause (iii), by inserting “United States
24 persons or” after “later determined to be”.

1 **TITLE IV—FOREIGN INTEL-**
2 **LIGENCE SURVEILLANCE**
3 **COURT REFORMS**

4 **SEC. 401. OFFICE OF THE SPECIAL ADVOCATE.**

5 (a) ESTABLISHMENT.—The Foreign Intelligence Sur-
6 veillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended
7 by adding at the end the following new title:

8 **“TITLE IX—OFFICE OF THE**
9 **SPECIAL ADVOCATE**

10 **“SEC. 901. DEFINITIONS.**

11 “In this title:

12 “(1) DECISION.—The term ‘decision’ means a
13 decision, order, or opinion issued by the Foreign In-
14 telligence Surveillance Court or the Foreign Intel-
15 ligence Surveillance Court of Review.

16 “(2) FOREIGN INTELLIGENCE SURVEILLANCE
17 COURT; COURT.—The terms ‘Foreign Intelligence
18 Surveillance Court’ and ‘Court’ mean the court es-
19 tablished under section 103(a) and the petition re-
20 view pool established under section 103(e).

21 “(3) FOREIGN INTELLIGENCE SURVEILLANCE
22 COURT OF REVIEW; COURT OF REVIEW.—The terms
23 ‘Foreign Intelligence Surveillance Court of Review’
24 and ‘Court of Review’ mean the court of review es-
25 tablished under section 103(b).

1 “(4) OFFICE.—The term ‘Office’ means the Of-
2 fice of the Special Advocate established under sec-
3 tion 902(a).

4 “(5) SIGNIFICANT CONSTRUCTION OR INTER-
5 PRETATION OF LAW.—The term ‘significant con-
6 struction or interpretation of law’ means a signifi-
7 cant construction or interpretation of a provision, as
8 that term is construed under section 601(c).

9 “(6) SPECIAL ADVOCATE.—The term ‘Special
10 Advocate’ means the Special Advocate appointed
11 under section 902(b).

12 **“SEC. 902. OFFICE OF THE SPECIAL ADVOCATE.**

13 “(a) ESTABLISHMENT.—There is established within
14 the judicial branch of the United States an Office of the
15 Special Advocate.

16 “(b) SPECIAL ADVOCATE.—

17 “(1) IN GENERAL.—The head of the Office is
18 the Special Advocate.

19 “(2) APPOINTMENT AND TERM.—

20 “(A) APPOINTMENT.—The Chief Justice of
21 the United States shall appoint the Special Ad-
22 vocate from the list of candidates submitted
23 under subparagraph (B).

24 “(B) LIST OF CANDIDATES.—The Privacy
25 and Civil Liberties Oversight Board shall sub-

1 mit to the Chief Justice a list of not less than
2 5 qualified candidates to serve as Special Advo-
3 cate. The Board shall select candidates for such
4 list whom the Board believes will be zealous and
5 effective advocates in defense of civil liberties
6 and consider with respect to each potential can-
7 didate—

8 “(i) the litigation and other profes-
9 sional experience of such candidate;

10 “(ii) the experience of such candidate
11 in areas of law that the Special Advocate
12 is likely to encounter in the course of the
13 duties of the Special Advocate; and

14 “(iii) the demonstrated commitment
15 of such candidate to civil liberties.

16 “(C) SECURITY CLEARANCE.—An indi-
17 vidual may be appointed Special Advocate with-
18 out regard to whether the individual possesses
19 a security clearance on the date of the appoint-
20 ment.

21 “(D) TERM AND DISMISSAL.—A Special
22 Advocate shall be appointed for a term of 3
23 years and may be removed only for good cause
24 shown, including the demonstrated inability to
25 qualify for an adequate security clearance.

1 “(E) REAPPOINTMENT.—There shall be no
2 limit to the number of consecutive terms served
3 by a Special Advocate. The reappointment of a
4 Special Advocate shall be made in the same
5 manner as appointment of a Special Advocate.

6 “(F) ACTING SPECIAL ADVOCATE.—If the
7 position of Special Advocate is vacant, the Chief
8 Justice of the United States may appoint an
9 Acting Special Advocate from among the quali-
10 fied employees of the Office. If there are no
11 such qualified employees, the Chief Justice may
12 appoint an Acting Special Advocate from the
13 most recent list of candidates provided by the
14 Privacy and Civil Liberties Oversight Board
15 pursuant to subparagraph (B). The Acting Spe-
16 cial Advocate shall have all of the powers of a
17 Special Advocate and shall serve until a Special
18 Advocate is appointed.

19 “(3) EMPLOYEES.—The Special Advocate may
20 appoint and terminate and fix the compensation of
21 employees of the Office without regard to the provi-
22 sions of title 5, United States Code, governing ap-
23 pointments in the competitive service.

24 “(c) DUTIES AND AUTHORITIES OF THE SPECIAL
25 ADVOCATE.—

1 “(1) IN GENERAL.—The Special Advocate—

2 “(A) may consider any request for con-
3 sultation by a party who has been served with
4 an order or directive issued under this Act re-
5 quiring the party to provide information, facili-
6 ties, or assistance to the Federal Government;

7 “(B) may request to participate in a pro-
8 ceeding before the Foreign Intelligence Surveil-
9 lance Court;

10 “(C) shall participate in such proceeding if
11 such request is granted;

12 “(D) shall participate in a proceeding be-
13 fore the Court if appointed to participate by the
14 Court under section 903(a);

15 “(E) may request reconsideration of a de-
16 cision of the Court under section 903(b);

17 “(F) may appeal or seek review of a deci-
18 sion of the Court or the Foreign Intelligence
19 Surveillance Court of Review under section 904;
20 and

21 “(G) shall participate in such appeal or re-
22 view.

23 “(2) ACCESS TO APPLICATIONS AND DECI-
24 SIONS.—

1 “(A) APPLICATIONS.—The Attorney Gen-
2 eral shall provide to the Special Advocate each
3 application submitted to a judge of the Foreign
4 Intelligence Surveillance Court under this Act
5 at the same time as the Attorney General sub-
6 mits such applications.

7 “(B) DECISIONS.—The Foreign Intel-
8 ligence Surveillance Court and the Foreign In-
9 telligence Surveillance Court of Review shall
10 provide to the Special Advocate access to each
11 decision of the Court and the Court of Review,
12 respectively, issued after the date of the enact-
13 ment of the USA FREEDOM Act and all docu-
14 ments and other material relevant to such deci-
15 sion in complete, unredacted form.

16 “(3) ADVOCACY.—The Special Advocate shall
17 vigorously advocate before the Foreign Intelligence
18 Surveillance Court or the Foreign Intelligence Sur-
19 veillance Court of Review, as appropriate, in support
20 of legal interpretations that protect individual pri-
21 vacy and civil liberties.

22 “(4) OUTSIDE COUNSEL.—The Special Advo-
23 cate may delegate to a competent outside counsel
24 who has or is able to obtain an appropriate security
25 clearance any duty or responsibility of the Special

1 Advocate set out in subparagraph (E) or (F) of
2 paragraph (1) with respect to participation in a mat-
3 ter before the Court, the Court of Review, or the Su-
4 preme Court of the United States.

5 “(5) AVAILABILITY OF DOCUMENTS AND MATE-
6 RIAL.—The Court or the Court of Review, as appro-
7 priate, shall order any agency, department, or entity
8 to make available to the Special Advocate, or appro-
9 priate outside counsel if the Special Advocate has
10 delegated duties or responsibilities to the outside
11 counsel under paragraph (4), any documents or
12 other material necessary to carry out the duties de-
13 scribed in paragraph (1).

14 “(d) SECURITY CLEARANCES.—The appropriate de-
15 partments, agencies, and elements of the Executive branch
16 shall cooperate with the Office, to the extent possible
17 under existing procedures and requirements, to expedi-
18 tiously provide the Special Advocate, appropriate employ-
19 ees of the Office, and outside counsel to whom the Special
20 Advocate delegates a duty or responsibility under sub-
21 section (c)(4) with the security clearances necessary to
22 carry out the duties of the Special Advocate.

23 **“SEC. 903. ADVOCACY BEFORE THE FOREIGN INTEL-**
24 **LIGENCE SURVEILLANCE COURT.**

25 “(a) APPOINTMENT TO PARTICIPATE.—

1 “(1) IN GENERAL.—The Foreign Intelligence
2 Surveillance Court may appoint the Special Advocate
3 to participate in a proceeding before the Court.

4 “(2) STANDING.—If the Special Advocate is ap-
5 pointed to participate in a Court proceeding pursu-
6 ant to paragraph (1), the Special Advocate shall
7 have standing as a party before the Court in that
8 proceeding.

9 “(b) RECONSIDERATION OF A FOREIGN INTEL-
10 LIGENCE SURVEILLANCE COURT DECISION.—

11 “(1) AUTHORITY TO MOVE FOR RECONSIDER-
12 ATION.—The Special Advocate may move the Court
13 to reconsider any decision of the Court made after
14 the date of the enactment of the USA FREEDOM
15 Act by petitioning the Court not later than 30 days
16 after the date on which all documents and materials
17 relevant to the decision are made available to the
18 Special Advocate.

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

22 “(c) AMICI CURIAE PARTICIPATION.—

23 “(1) MOTION BY THE SPECIAL ADVOCATE.—
24 The Special Advocate may file a motion with the
25 Court to permit and facilitate participation of amici

1 curiae, including participation in oral argument if
2 appropriate, in any proceeding. The Court shall have
3 the discretion to grant or deny such a motion.

4 “(2) FACILITATION BY THE FOREIGN INTEL-
5 LIGENCE SURVEILLANCE COURT.—The Court may,
6 sua sponte, permit and facilitate participation by
7 amici curiae, including participation in oral argu-
8 ment if appropriate, in proceedings before the Court.

9 “(3) REGULATIONS.—Not later than 180 days
10 after the date of the enactment of USA FREEDOM
11 Act, the Court shall promulgate regulations to pro-
12 vide the public with information sufficient to allow
13 interested parties to participate as amici curiae.

14 **“SEC. 904. APPELLATE REVIEW.**

15 “(a) APPEAL OF FOREIGN INTELLIGENCE SURVEIL-
16 LANCE COURT DECISIONS.—

17 “(1) AUTHORITY TO APPEAL.—The Special Ad-
18 vocate may appeal any decision of the Foreign Intel-
19 ligence Surveillance Court issued after the date of
20 the enactment of the USA FREEDOM Act not later
21 than 90 days after the date on which the decision
22 is issued.

23 “(2) STANDING AS APPELLANT.—If the Special
24 Advocate appeals a decision of the Court pursuant
25 to paragraph (1), the Special Advocate shall have

1 standing as a party before the Foreign Intelligence
2 Surveillance Court of Review in such appeal.

3 “(3) MANDATORY REVIEW.—The Court of Re-
4 view shall review any Foreign Intelligence Surveil-
5 lance Court decision appealed by the Special Advo-
6 cate and issue a decision in such appeal, unless it
7 would be apparent to all reasonable jurists that such
8 decision is dictated by statute or by precedent.

9 “(4) STANDARD OF REVIEW.—The standard for
10 a mandatory review of a Foreign Intelligence Sur-
11 veillance Court decision pursuant to paragraph (3)
12 shall be—

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

15 “(B) clearly erroneous with respect to de-
16 termination of facts.

17 “(5) AMICI CURIAE PARTICIPATION.—

18 “(A) IN GENERAL.—The Court of Review
19 shall accept amici curiae briefs from interested
20 parties in all mandatory reviews pursuant to
21 paragraph (3) and shall provide for amici cu-
22 riae participation in oral argument if appro-
23 priate.

24 “(B) REGULATIONS.—Not later than 180
25 days after the date of the enactment of the

1 USA FREEDOM Act, the Court of Review
2 shall promulgate regulations to provide the pub-
3 lic with information sufficient to allow inter-
4 ested parties to participate as amici curiae.

5 “(b) REVIEW OF FOREIGN INTELLIGENCE SURVEIL-
6 LANCE COURT OF REVIEW DECISIONS.—

7 “(1) AUTHORITY.—The Special Advocate may
8 seek a writ of certiorari from the Supreme Court of
9 the United States for review of any decision of the
10 Foreign Intelligence Surveillance Court of Review.

11 “(2) STANDING.—In any proceedings before the
12 Supreme Court of the United States relating to a
13 petition of certiorari filed under paragraph (1) and
14 any proceedings in a matter for which certiorari is
15 granted, the Special Advocate shall have standing as
16 a party.

17 **“SEC. 905. DISCLOSURE.**

18 “(a) REQUIREMENT TO DISCLOSE.—The Attorney
19 General shall publicly disclose—

20 “(1) all decisions issued by the Foreign Intel-
21 ligence Surveillance Court or the Foreign Intel-
22 ligence Surveillance Court of Review after July 10,
23 2003, that include a significant construction or in-
24 terpretation of law;

1 “(2) any decision of the Court appealed by the
2 Special Advocate pursuant to this title; and

3 “(3) any Court of Review decision that is issued
4 after an appeal by the Special Advocate.

5 “(b) DISCLOSURE DESCRIBED.—For each disclosure
6 required by subsection (a) with respect to a decision, the
7 Attorney General shall make available to the public docu-
8 ments sufficient—

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

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

14 “(3) to describe the construction or interpreta-
15 tion of any statute, constitutional provision, or other
16 legal authority relied on by the decision; and

17 “(4) to indicate whether the decision departed
18 from any prior decision of the Court or Court of Re-
19 view.

20 “(c) DOCUMENTS DESCRIBED.—The Attorney Gen-
21 eral shall satisfy the disclosure requirements in subsection
22 (b) by—

23 “(1) releasing a Court or Court of Review deci-
24 sion in its entirety or as redacted;

1 “(2) releasing a summary of a Court or Court
2 of Review decision; or

3 “(3) releasing an application made to the
4 Court, briefs filed before the Court or the Court of
5 Review, or other materials, in full or as redacted.

6 “(d) EXTENSIVE DISCLOSURE.—The Attorney Gen-
7 eral shall release as much information regarding the facts
8 and analysis contained in a decision described in sub-
9 section (a) or documents described in subsection (c) as is
10 consistent with legitimate national security concerns.

11 “(e) TIMING OF DISCLOSURE.—

12 “(1) DECISIONS ISSUED PRIOR TO ENACT-
13 MENT.—The Attorney General shall disclose a deci-
14 sion issued prior to the date of the enactment of the
15 USA FREEDOM Act that is required to be dis-
16 closed under subsection (a)(1) not later than 180
17 days after the date of the enactment of such Act.

18 “(2) FISA COURT DECISIONS.—The Attorney
19 General shall release Court decisions appealed by the
20 Special Advocate not later than 30 days after the
21 date on which the appeal is filed.

22 “(3) FISA COURT OF REVIEW DECISIONS.—The
23 Attorney General shall release Court of Review deci-
24 sions for which the Special Advocate seeks a writ of

1 certiorari not later than 90 days after the date on
2 which the petition is filed.

3 “(f) PETITION BY THE SPECIAL ADVOCATE.—

4 “(1) AUTHORITY TO PETITION.—The Special
5 Advocate may petition the Court or the Court of Re-
6 view to order—

7 “(A) the public disclosure of a decision of
8 the Court or Court of Review, and documents
9 or other material relevant to such a decision,
10 previously designated as classified information;
11 or

12 “(B) the release of an unclassified sum-
13 mary of such decisions and documents.

14 “(2) CONTENTS OF PETITION.—Each petition
15 filed under paragraph (1) shall contain a detailed
16 declassification proposal or a summary of the deci-
17 sion and documents that the Special Advocate pro-
18 poses to have released publicly.

19 “(3) ROLE OF THE ATTORNEY GENERAL.—

20 “(A) COPY OF PETITION.—The Special
21 Advocate shall provide to the Attorney General
22 a copy of each petition filed under paragraph
23 (1).

24 “(B) OPPOSITION.—The Attorney General
25 may oppose a petition filed under paragraph (1)

1 by submitting any objections in writing to the
2 Court or the Court of Review, as appropriate,
3 not later than 90 days after the date such peti-
4 tion was submitted.

5 “(4) PUBLIC AVAILABILITY.—Not less than 91
6 days after receiving a petition under paragraph (1),
7 and taking into account any objections from the At-
8 torney General made under paragraph (3)(B), the
9 Court or the Court of Review, as appropriate, shall
10 declassify and make readily available to the public
11 any decision, document, or other material requested
12 in such petition, to the greatest extent possible, con-
13 sistent with legitimate national security consider-
14 ations.

15 “(5) EFFECTIVE DATE.—The Special Advocate
16 may not file a petition under paragraph (1) until
17 181 days after the date of the enactment of the
18 USA FREEDOM Act, except with respect to a deci-
19 sion appealed by the Special Advocate.

20 **“SEC. 906. ANNUAL REPORT TO CONGRESS.**

21 “(a) REQUIREMENT FOR ANNUAL REPORT.—The
22 Special Advocate shall submit to Congress an annual re-
23 port on the implementation of this title.

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

1 “(1) detail the activities of the Office of the
2 Special Advocate;

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

5 “(3) propose any new legislation to improve the
6 functioning of the Office or the operation of the For-
7 eign Intelligence Surveillance Court or the Foreign
8 Intelligence Surveillance Court of Review that the
9 Special Advocate considers appropriate.”.

10 (b) TABLE OF CONTENTS AMENDMENT.—The table
11 of contents in the first section of the Foreign Intelligence
12 Surveillance Act of 1978, as amended by section 101(c)(2)
13 of this Act, is further amended by adding at the end the
14 following new items:

 “TITLE IX—OFFICE OF THE SPECIAL ADVOCATE

 “Sec. 901. Definitions.

 “Sec. 902. Office of the Special Advocate.

 “Sec. 903. Advocacy before the Foreign Intelligence Surveillance Court.

 “Sec. 904. Appellate review.

 “Sec. 905. Disclosure.

 “Sec. 906. Annual report to Congress.”.

15 **SEC. 402. FOREIGN INTELLIGENCE SURVEILLANCE COURT**

16 **DISCLOSURE OF OPINIONS.**

17 Section 103 of the Foreign Intelligence Surveillance
18 Act of 1978 (50 U.S.C. 1803) is amended—

19 (1) by redesignating subsections (g) and (h) as
20 subsections (h) and (i), respectively; and

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

1 “(g)(1) A judge of the court established under sub-
2 section (a) who authored an order, opinion, or other deci-
3 sion may sua sponte or on motion by a party request that
4 such order, opinion, or other decision be made publicly
5 available.

6 “(2) Upon a request under paragraph (1), the pre-
7 siding judge of the court established under subsection (a),
8 in consultation with the other judges of such court, may
9 direct that such order, opinion, or other decision be made
10 publicly available.

11 “(3) Prior to making an order, opinion, or other deci-
12 sion of the court established under subsection (a) publicly
13 available in accordance with this subsection, the presiding
14 judge of such court may direct the Executive branch to
15 review such order, opinion, or other decision and redact
16 such order, opinion, or other decision as necessary to en-
17 sure that properly classified information is appropriately
18 protected.”.

19 **SEC. 403. PRESERVATION OF RIGHTS.**

20 Nothing in this title or an amendment made by this
21 title shall be construed—

22 (1) to provide the Attorney General with au-
23 thority to prevent the FISA Court or FISA Court of
24 Review from declassifying decisions or releasing in-

1 formation pursuant to this title or an amendment
2 made by this title; and

3 (2) to eliminate the public’s ability to secure in-
4 formation under section 552 of title 5, United States
5 Code (commonly known as the “Freedom of Infor-
6 mation Act”) or any other provision of law.

7 **TITLE V—NATIONAL SECURITY**
8 **LETTER REFORMS**

9 **SEC. 501. NATIONAL SECURITY LETTER AUTHORITY.**

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

13 (1) in subsection (b)—

14 (A) by striking “may—” and all that fol-
15 lows through the period at the end and insert-
16 ing the following: “may request the name, ad-
17 dress, length of service, and local and long dis-
18 tance toll billing records of a person or entity
19 if the Director (or his designee) certifies in
20 writing to the wire or electronic communication
21 service provider to which the request is made
22 that—”; and

23 (B) by adding at the end the following new
24 paragraphs:

1 “(1) the name, address, length of service, and
2 toll billing records sought are relevant and material
3 to an authorized investigation to protect against
4 international terrorism or clandestine intelligence ac-
5 tivities, provided that such an investigation of a
6 United States person is not conducted solely on the
7 basis of activities protected by the First Amendment
8 to the Constitution of the United States; and

9 “(2) there are reasonable grounds to believe
10 that the name, address, length of service, and toll
11 billing records sought pertain to—

12 “(A) a foreign power or agent of a foreign
13 power;

14 “(B) the activities of a suspected agent of
15 a foreign power who is the subject of such au-
16 thorized investigation; or

17 “(C) an individual in contact with, or
18 known to, a suspected agent of a foreign
19 power.”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “(g) For purposes of this subsection, the terms ‘agent
23 of a foreign power’, ‘foreign power’, ‘international ter-
24 rorism’, and ‘United States person’ have the same mean-

1 ings as in section 101 of the Foreign Intelligence Surveil-
2 lance Act of 1978 (50 U.S.C. 1801).”.

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

7 **“SEC. 1114. ACCESS TO FINANCIAL RECORDS FOR CERTAIN**
8 **INTELLIGENCE AND PROTECTIVE PURPOSES.**

9 “(a) AUTHORIZATION.—

10 “(1) IN GENERAL.—The Director of the Fed-
11 eral Bureau of Investigation, or a designee of the
12 Director whose rank shall be no lower than Deputy
13 Assistant Director at Bureau headquarters or Spe-
14 cial Agent in Charge in a Bureau field office, may
15 issue in writing and cause to be served on a financial
16 institution, a request requiring the production of—

17 “(A) the name of a customer of the finan-
18 cial institution;

19 “(B) the address of a customer of the fi-
20 nancial institution;

21 “(C) the length of time during which a
22 person has been, or was, a customer of the fi-
23 nancial institution (including the start date)
24 and the type of service provided by the financial
25 institution to the customer; and

1 “(D) any account number or other unique
2 identifier associated with a customer of the fi-
3 nancial institution.

4 “(2) LIMITATION.—A request issued under this
5 subsection may not require the production of records
6 or information not listed in paragraph (1).

7 “(b) REQUIREMENTS.—

8 “(1) IN GENERAL.—A request issued under
9 subsection (a) shall—

10 “(A) be subject to the requirements of sub-
11 sections (d) through (g) of section 2709 of title
12 18, United States Code, in the same manner
13 and to the same extent as those provisions
14 apply with respect to a request under section
15 2709(b) of title 18, United States Code, to a
16 wire or electronic communication service pro-
17 vider; and

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

21 “(i) are relevant and material to an
22 authorized investigation (other than a
23 threat assessment and provided that such
24 an investigation of a United States person
25 is not conducted solely on the basis of ac-

1 activities protected by the First Amendment
2 to the Constitution of the United States)
3 to—

4 “(I) obtain foreign intelligence
5 information not concerning a United
6 States person; or

7 “(II) protect against inter-
8 national terrorism or clandestine intel-
9 ligence activities; and

10 “(ii) pertain to—

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

13 “(II) the activities of a suspected
14 agent of a foreign power who is the
15 subject of such authorized investiga-
16 tion; or

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

20 “(2) DEFINITIONS.—For purposes of this sub-
21 section, the terms ‘agent of a foreign power’, ‘for-
22 eign intelligence information’, ‘foreign power’, ‘inter-
23 national terrorism’, and ‘United States person’ have
24 the same meanings as in section 101 of the Foreign

1 Intelligence Surveillance Act of 1978 (50 U.S.C.
2 1801).

3 “(c) DEFINITION OF FINANCIAL INSTITUTION.—For
4 purposes of this section (and sections 1115 and 1117, in-
5 sofar as the sections relate to the operation of this sec-
6 tion), the term ‘financial institution’ has the same mean-
7 ing as in subsections (a)(2) and (c)(1) of section 5312 of
8 title 31, United States Code, except that the term shall
9 include only a financial institution any part of which is
10 located inside any State or territory of the United States,
11 the District of Columbia, Puerto Rico, Guam, American
12 Samoa, the Commonwealth of the Northern Mariana Is-
13 lands, or the United States Virgin Islands.”.

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

16 (1) IN GENERAL.—Section 626 of the Fair
17 Credit Reporting Act (15 U.S.C. 1681u) is amend-
18 ed—

19 (A) by striking subsections (a) through (c)
20 and inserting the following new subsections:

21 “(a) AUTHORIZATION.—

22 “(1) IN GENERAL.—The Director of the Fed-
23 eral Bureau of Investigation, or a designee of the
24 Director whose rank shall be no lower than Deputy
25 Assistant Director at Bureau headquarters or Spe-

1 cial Agent in Charge in a Bureau field office, may
2 issue in writing and cause to be served on a con-
3 sumer reporting agency a request requiring the pro-
4 duction of—

5 “(A) the name of a consumer;

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

8 “(C) the current and former places of em-
9 ployment of a consumer; and

10 “(D) the name and address of any finan-
11 cial institution (as that term is defined in sec-
12 tion 1101 of the Right to Financial Privacy Act
13 of 1978 (12 U.S.C. 3401)) at which a consumer
14 maintains or has maintained an account, to the
15 extent that the information is in the files of the
16 consumer reporting agency.

17 “(2) LIMITATION.—A request issued under this
18 subsection may not require the production of a con-
19 sumer report.

20 “(b) REQUIREMENTS.—

21 “(1) IN GENERAL.—A request issued under
22 subsection (a) shall—

23 “(A) be subject to the requirements of sub-
24 sections (d) through (g) of section 2709 of title
25 18, United States Code, in the same manner

1 and to the same extent as those provisions
2 apply with respect to a request under section
3 2709(b) of title 18, United States Code, to a
4 wire or electronic communication service pro-
5 vider; and

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

9 “(i) are relevant and material to an
10 authorized investigation (other than a
11 threat assessment and provided that such
12 an investigation of a United States person
13 is not conducted solely on the basis of ac-
14 tivities protected by the First Amendment
15 to the Constitution of the United States)
16 to—

17 “(I) obtain foreign intelligence
18 information not concerning a United
19 States person; or

20 “(II) protect against inter-
21 national terrorism or clandestine intel-
22 ligence activities; and

23 “(ii) pertain to—

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

1 “(II) the activities of a suspected
2 agent of a foreign power who is the
3 subject of such authorized investiga-
4 tion; or

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

8 “(2) DEFINITIONS.—In this subsection, the
9 terms ‘agent of a foreign power’, ‘foreign intelligence
10 information’, ‘foreign power’, ‘international ter-
11 rorism’, and ‘United States person’ have the mean-
12 ing given such terms in section 101 of the Foreign
13 Intelligence Surveillance Act of 1978 (50 U.S.C.
14 1801).”;

15 (B) by striking subsections (f) through (h);

16 and

17 (C) by redesignating subsections (d), (e),
18 (i), (j), (k), (l), and (m) as subsections (c), (d),
19 (e), (f), (g), (h), and (i), respectively.

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

22 **SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SE-**
23 **CURITY LETTERS.**

24 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
25 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of

1 title 18, United States Code, is amended by striking sub-
2 section (c) and inserting the following new subsection:

3 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

4 “(1) PROHIBITION.—

5 “(A) IN GENERAL.—If a certification is
6 issued under subparagraph (B) and notice of
7 the right to judicial review under subsection (d)
8 is provided, no wire or electronic communica-
9 tion service provider, or officer, employee, or
10 agent thereof, that receives a request under
11 subsection (b), shall disclose to any person that
12 the Director of the Federal Bureau of Inves-
13 tigation has sought or obtained access to infor-
14 mation or records under this section.

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

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

1 “(ii) flight from investigation or pros-
2 ecution;

3 “(iii) destruction of or tampering with
4 evidence;

5 “(iv) intimidation of potential wit-
6 nesses;

7 “(v) interference with diplomatic rela-
8 tions;

9 “(vi) alerting a target, an associate of
10 a target, or the foreign power of which the
11 target is an agent, of the interest of the
12 Government in the target; or

13 “(vii) otherwise seriously endangering
14 the national security of the United States.

15 “(2) EXCEPTION.—

16 “(A) IN GENERAL.—A wire or electronic
17 communication service provider, or officer, em-
18 ployee, or agent thereof, that receives a request
19 under subsection (b) may disclose information
20 otherwise subject to any applicable nondisclo-
21 sure requirement to—

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

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

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

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

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

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

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

3 “(3) TERMINATION.—In the case of any request
4 for which a recipient has submitted a notification or
5 filed a petition for judicial review under paragraph
6 (3)(B), if the facts supporting a nondisclosure re-
7 quirement cease to exist, an appropriate official of
8 the Federal Bureau of Investigation shall promptly
9 notify the wire or electronic service provider, or offi-
10 cer, employee, or agent thereof, subject to the non-
11 disclosure requirement that the nondisclosure re-
12 quirement is no longer in effect.”.

13 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
14 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
15 1114 of the Right to Financial Privacy Act of 1978 (12
16 U.S.C. 3414), as amended by section 501(b) of this Act,
17 is further amended—

18 (1) by redesignating subsection (c) as sub-
19 section (d); and

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

22 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

23 “(1) PROHIBITION.—

24 “(A) IN GENERAL.—If a certification is
25 issued under subparagraph (B) and notice of

1 the right to judicial review under subsection (d)
2 is provided, no financial institution, or officer,
3 employee, or agent thereof, that receives a re-
4 quest under subsection (a) shall disclose to any
5 person that the Federal Bureau of Investigation
6 has sought or obtained access to information or
7 records under subsection (a).

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

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

19 “(ii) flight from investigation or pros-
20 ecution;

21 “(iii) destruction of or tampering with
22 evidence;

23 “(iv) intimidation of potential wit-
24 nesses;

1 “(v) interference with diplomatic rela-
2 tions;

3 “(vi) alerting a target, an associate of
4 a target, or the foreign power of which the
5 target is an agent, of the interest of the
6 Government in the target; or

7 “(vii) otherwise seriously endangering
8 the national security of the United States.

9 “(2) EXCEPTION.—

10 “(A) IN GENERAL.—A financial institu-
11 tion, or officer, employee, or agent thereof, that
12 receives a request under subsection (a) may dis-
13 close information otherwise subject to any ap-
14 plicable nondisclosure requirement to—

15 “(i) those persons to whom disclosure
16 is necessary in order to comply with the re-
17 quest;

18 “(ii) an attorney in order to obtain
19 legal advice or assistance regarding the re-
20 quest; or

21 “(iii) other persons as permitted by
22 the Director of the Federal Bureau of In-
23 vestigation or the designee of the Director.

24 “(B) APPLICATION.—A person to whom
25 disclosure is made under subparagraph (A)

1 shall be subject to the nondisclosure require-
2 ments applicable to a person to whom a request
3 is issued under subsection (a) in the same man-
4 ner as the person to whom the request is
5 issued.

6 “(C) NOTICE.—Any recipient that dis-
7 closes to a person described in subparagraph
8 (A) information otherwise subject to a non-
9 disclosure requirement shall inform the person
10 of the applicable nondisclosure requirement.

11 “(D) IDENTIFICATION OF DISCLOSURE RE-
12 CIPIENTS.—At the request of the Director of
13 the Federal Bureau of Investigation or the des-
14 ignee of the Director, any person making or in-
15 tending to make a disclosure under clause (i) or
16 (iii) of subparagraph (A) shall identify to the
17 Director or such designee the person to whom
18 such disclosure will be made or to whom such
19 disclosure was made prior to the request.

20 “(3) TERMINATION.—In the case of any request
21 for which a financial institution has submitted a no-
22 tification or filed a petition for judicial review under
23 paragraph (3)(B), if the facts supporting a non-
24 disclosure requirement cease to exist, an appropriate
25 official of the Federal Bureau of Investigation shall

1 promptly notify the financial institution, or officer,
2 employee, or agent thereof, subject to the nondisclo-
3 sure requirement that the nondisclosure requirement
4 is no longer in effect.”.

5 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
6 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
7 porting Act (15 U.S.C. 1681u), as amended by section
8 501(c) of this Act, is further amended by striking sub-
9 section (c) (as redesignated by section 501(c)(1)(D) of this
10 Act) and inserting the following new subsection:

11 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

12 “(1) PROHIBITION.—

13 “(A) IN GENERAL.—If a certification is
14 issued under subparagraph (B) and notice of
15 the right to judicial review under subsection (d)
16 is provided, no consumer reporting agency, or
17 officer, employee, or agent thereof, that receives
18 a request under subsection (a) shall disclose or
19 specify in any consumer report, that the Fed-
20 eral Bureau of Investigation has sought or ob-
21 tained access to information or records under
22 subsection (a) or (b).

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

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

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

9 “(ii) flight from investigation or pros-
10 ecution;

11 “(iii) destruction of or tampering with
12 evidence;

13 “(iv) intimidation of potential wit-
14 nesses;

15 “(v) interference with diplomatic rela-
16 tions;

17 “(vi) alerting a target, an associate of
18 a target, or the foreign power of which the
19 target is an agent, of the interest of the
20 Government in the target; or

21 “(vii) otherwise seriously endangering
22 the national security of the United States.

23 “(2) EXCEPTION.—

24 “(A) IN GENERAL.—A consumer reporting
25 agency, or officer, employee, or agent thereof,

1 that receives a request under subsection (a)
2 may disclose information otherwise subject to
3 any applicable nondisclosure requirement to—

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

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

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

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

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

1 “(D) IDENTIFICATION OF DISCLOSURE RE-
2 CIPIENTS.—At the request of the Director of
3 the Federal Bureau of Investigation or the des-
4 ignee of the Director, any person making or in-
5 tending to make a disclosure under clause (i) or
6 (iii) of subparagraph (A) shall identify to the
7 Director or such designee the person to whom
8 such disclosure will be made or to whom such
9 disclosure was made prior to the request.

10 “(3) TERMINATION.—In the case of any request
11 for which a consumer reporting agency has sub-
12 mitted a notification or filed a petition for judicial
13 review under paragraph (3)(B), if the facts sup-
14 porting a nondisclosure requirement cease to exist,
15 an appropriate official of the Federal Bureau of In-
16 vestigation shall promptly notify the consumer re-
17 porting agency, or officer, employee, or agent there-
18 of, subject to the nondisclosure requirement that the
19 nondisclosure requirement is no longer in effect.”.

20 (d) INVESTIGATIONS OF PERSONS WITH ACCESS TO
21 CLASSIFIED INFORMATION.—Section 802 of the National
22 Security Act of 1947 (50 U.S.C. 3162) is amended by
23 striking subsection (b) and inserting the following new
24 subsection:

25 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

1 “(1) PROHIBITION.—

2 “(A) IN GENERAL.—If a certification is
3 issued under subparagraph (B) and notice of
4 the right to judicial review under subsection (c)
5 is provided, no governmental or private entity,
6 or officer, employee, or agent thereof, that re-
7 ceives a request under subsection (a), shall dis-
8 close to any person that an authorized inves-
9 tigative agency described in subsection (a) has
10 sought or obtained access to information under
11 subsection (a).

12 “(B) CERTIFICATION.—The requirements
13 of subparagraph (A) shall apply if the head of
14 an authorized investigative agency described in
15 subsection (a), or a designee, certifies that the
16 absence of a prohibition of disclosure under this
17 subsection may result in—

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

20 “(ii) flight from investigation or pros-
21 ecution;

22 “(iii) destruction of or tampering with
23 evidence;

24 “(iv) intimidation of potential wit-
25 nesses;

1 “(v) interference with diplomatic rela-
2 tions;

3 “(vi) alerting a target, an associate of
4 a target, or the foreign power of which the
5 target is an agent, of the interest of the
6 Government in the target; or

7 “(vii) otherwise seriously endangering
8 the national security of the United States.

9 “(2) EXCEPTION.—

10 “(A) IN GENERAL.—A governmental or
11 private entity, or officer, employee, or agent
12 thereof, that receives a request under sub-
13 section (a) may disclose information otherwise
14 subject to any applicable nondisclosure require-
15 ment to—

16 “(i) those persons to whom disclosure
17 is necessary in order to comply with the re-
18 quest;

19 “(ii) an attorney in order to obtain
20 legal advice or assistance regarding the re-
21 quest; or

22 “(iii) other persons as permitted by
23 the head of the authorized investigative
24 agency described in subsection (a).

1 “(B) APPLICATION.—A person to whom
2 disclosure is made under subparagraph (A)
3 shall be subject to the nondisclosure require-
4 ments applicable to a person to whom a request
5 is issued under subsection (a) in the same man-
6 ner as the person to whom the request is
7 issued.

8 “(C) NOTICE.—Any recipient that dis-
9 closes to a person described in subparagraph
10 (A) information otherwise subject to a non-
11 disclosure requirement shall inform the person
12 of the applicable nondisclosure requirement.

13 “(D) IDENTIFICATION OF DISCLOSURE RE-
14 CIPIENTS.—At the request of the head of an
15 authorized investigative agency described in
16 subsection (a), or a designee, any person mak-
17 ing or intending to make a disclosure under
18 clause (i) or (iii) of subparagraph (A) shall
19 identify to the head of the authorized investiga-
20 tive agency or such designee the person to
21 whom such disclosure will be made or to whom
22 such disclosure was made prior to the request.

23 “(3) TERMINATION.—In the case of any request
24 for which a governmental or private entity has sub-
25 mitted a notification or filed a petition for judicial

1 review under paragraph (3)(B), if the facts sup-
2 porting a nondisclosure requirement cease to exist,
3 an appropriate official of the authorized investigative
4 agency described in subsection (a) shall promptly no-
5 tify the governmental or private entity, or officer,
6 employee, or agent thereof, subject to the nondisclo-
7 sure requirement that the nondisclosure requirement
8 is no longer in effect.”.

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

12 “(b) NONDISCLOSURE.—

13 “(1) IN GENERAL.—

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

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

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

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

1 response to a petition filed under paragraph (1)
2 shall include a certification from the Attorney Gen-
3 eral, Deputy Attorney General, an Assistant Attor-
4 ney General, or the Director of the Federal Bureau
5 of Investigation, or in the case of a request by a de-
6 partment, agency, or instrumentality of the Federal
7 Government other than the Department of Justice,
8 the head or deputy head of the department, agency,
9 or instrumentality, containing a statement of specific
10 facts indicating that the absence of a prohibition of
11 disclosure under this subsection may result in—

12 “(A) endangering the life or physical safety
13 of any person;

14 “(B) flight from investigation or prosecu-
15 tion;

16 “(C) destruction of or tampering with evi-
17 dence;

18 “(D) intimidation of potential witnesses;

19 “(E) interference with diplomatic relations;

20 “(F) alerting a target, an associate of a
21 target, or the foreign power of which the target
22 is an agent, of the interest of the Government
23 in the target; or

24 “(G) otherwise seriously endangering the
25 national security of the United States.

1 “(3) STANDARD.—A district court of the
2 United States shall issue a nondisclosure require-
3 ment order or extension thereof under this sub-
4 section if the court determines that there is reason
5 to believe that disclosure of the information subject
6 to the nondisclosure requirement during the applica-
7 ble time period will result in—

8 “(A) endangering the life or physical safety
9 of any person;

10 “(B) flight from investigation or prosecu-
11 tion;

12 “(C) destruction of or tampering with evi-
13 dence;

14 “(D) intimidation of potential witnesses;

15 “(E) interference with diplomatic relations;

16 “(F) alerting a target, an associate of a
17 target, or the foreign power of which the target
18 is an agent, of the interest of the Government
19 in the target; or

20 “(G) otherwise seriously endangering the
21 national security of the United States.”.

22 **SEC. 503. JUDICIAL REVIEW.**

23 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
24 TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of

1 title 18, United States Code, as amended by section
2 501(a) of this Act, is further amended—

3 (1) by redesignating subsections (d), (e), (f),
4 and (g) as subsections (e), (f), (g), and (h), respec-
5 tively; and

6 (2) by inserting after subsection (c) the fol-
7 lowing new subsection:

8 “(d) JUDICIAL REVIEW.—

9 “(1) IN GENERAL.—A request under subsection
10 (b) or a non-disclosure requirement imposed in con-
11 nection with such request under subsection (c) shall
12 be subject to judicial review under section 3511.

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

16 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
17 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
18 1114 of the Right to Financial Privacy Act of 1978 (12
19 U.S.C. 3414), as amended by section 502(b) of this Act,
20 is further amended—

21 (1) by redesignating subsection (d) (as redesign-
22 nated by such section 502(b)) as subsection (e); and

23 (2) by inserting after subsection (c) the fol-
24 lowing new subsection:

25 “(d) JUDICIAL REVIEW.—

1 “(1) IN GENERAL.—A request under subsection
2 (a) or a non-disclosure requirement imposed in con-
3 nection with such request under subsection (c) shall
4 be subject to judicial review under section 3511 of
5 title 18, United States Code.

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

9 (c) IDENTITY OF FINANCIAL INSTITUTIONS AND
10 CREDIT REPORTS.—Section 626 of the Right to Financial
11 Privacy Act (15 U.S.C. 1681u), as amended by section
12 502(e) of this Act, is further amended—

13 (1) by redesignating subsections (d) through (i)
14 (as redesignated by such section 502(e)) as sub-
15 sections (e) through (j), respectively; and

16 (2) by inserting after subsection (c) the fol-
17 lowing new subsection:

18 “(d) JUDICIAL REVIEW.—

19 “(1) IN GENERAL.—A request under subsection
20 (a) or a non-disclosure requirement imposed in con-
21 nection with such request under subsection (c) shall
22 be subject to judicial review under section 3511 of
23 title 18, United States Code.

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

4 (d) INVESTIGATIONS OF PERSONS WITH ACCESS TO
5 CLASSIFIED INFORMATION.—Section 802 of the National
6 Security Act of 1947 (50 U.S.C. 3162) is amended—

7 (1) by redesignating subsections (e) through (e)
8 as subsections (d) through (f), respectively; and

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

11 “(c) JUDICIAL REVIEW.—

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

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

20 **SEC. 504. INSPECTOR GENERAL REPORTS ON NATIONAL SE-**
21 **CURITY LETTERS.**

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

25 (1) in subsection (b)—

1 (A) in paragraph (1), by inserting “and
2 calendar years 2010 through 2013” after
3 “2006”; and

4 (B) in paragraph (3)(C), by striking “(as
5 such term is defined in section 3(4) of the Na-
6 tional Security Act of 1947 (50 U.S.C.
7 401a(4)))”;

8 (2) in subsection (c), by adding at the end the
9 following new paragraph:

10 “(3) CALENDAR YEARS 2010 THROUGH 2013.—
11 Not later than December 31, 2014, the Inspector
12 General of the Department of Justice shall submit
13 to the Committee on the Judiciary and the Perma-
14 nent Select Committee on Intelligence of the House
15 of Representatives and the Committee on the Judici-
16 ary and the Select Committee on Intelligence of the
17 Senate a report containing the results of the audit
18 conducted under subsection (a) for calendar years
19 2010 through 2013.”;

20 (3) by striking subsection (g) and inserting the
21 following new subsection:

22 “(h) DEFINITIONS.—In this section:

23 “(1) INTELLIGENCE COMMUNITY.—The term
24 ‘intelligence community’ has the meaning given that

1 term in section 3 of the National Security Act of
2 1947 (50 U.S.C. 3003).

3 “(2) NATIONAL SECURITY LETTER.—The term
4 ‘national security letter’ means a request for infor-
5 mation under—

6 “(A) section 2709(b) of title 18, United
7 States Code (to access certain communication
8 service provider records);

9 “(B) section 1114 of the Right to Finan-
10 cial Privacy Act of 1978 (12 U.S.C.
11 3414(a)(5)(A)) (to obtain financial institution
12 customer records);

13 “(C) section 802 of the National Security
14 Act of 1947 (50 U.S.C. 3162) (to obtain finan-
15 cial information, records, and consumer re-
16 ports); or

17 “(D) section 626 of the Fair Credit Re-
18 porting Act (15 U.S.C. 1681u) (to obtain cer-
19 tain financial information and consumer re-
20 ports).

21 “(3) UNITED STATES PERSON.—The term
22 ‘United States person’ has the meaning given that
23 term in section 101 of the Foreign Intelligence Sur-
24 veillance Act of 1978 (50 U.S.C. 1801).”;

1 (4) by redesignating subsections (d), (e), and
2 (f) as subsections (e), (f), and (g), respectively;

3 (5) by inserting after subsection (c) the fol-
4 lowing new subsection:

5 “(d) INTELLIGENCE ASSESSMENT.—

6 “(1) IN GENERAL.—For the period beginning
7 on January 1, 2010, and ending on December 31,
8 2013, the Inspector General of the Intelligence Com-
9 munity shall—

10 “(A) examine the use of national security
11 letters by the intelligence community during the
12 period;

13 “(B) describe any noteworthy facts or cir-
14 cumstances relating to the use of national secu-
15 rity letters by the intelligence community, in-
16 cluding any improper or illegal use of such au-
17 thority;

18 “(C) assess the importance of information
19 received under the national security letters to
20 the activities of the intelligence community; and

21 “(D) examine the manner in which infor-
22 mation received under the national security let-
23 ters was collected, retained, analyzed, and dis-
24 seminated.

1 “(2) SUBMISSION DATE FOR ASSESSMENT.—
2 Not later than December 31, 2014, the Inspector
3 General of the Intelligence Community shall submit
4 to the Committee on the Judiciary and the Select
5 Committee on Intelligence of the Senate and the
6 Committee on the Judiciary and the Permanent Se-
7 lect Committee on Intelligence of the House of Rep-
8 resentatives a report containing the results of the
9 assessment for calendar years 2010 through 2013.”;

10 (6) in subsection (e), as redesignated by para-
11 graph (4)—

12 (A) in paragraph (1)—

13 (i) by striking “a report under sub-
14 section (c)(1) or (c)(2)” and inserting “any
15 report under subsection (c) or (d)”; and

16 (ii) by striking “Inspector General of
17 the Department of Justice” and inserting
18 “Inspector General of the Department of
19 Justice, the Inspector General of the Intel-
20 ligence Community, and any Inspector
21 General of an element of the intelligence
22 community that prepares a report to assist
23 the Inspector General of the Department
24 of Justice or the Inspector General of the

1 Intelligence Community in complying with
2 the requirements of this section”; and

3 (B) in paragraph (2), by striking “the re-
4 ports submitted under subsection (c)(1) or
5 (c)(2)” and inserting “any report submitted
6 under subsection (c) or (d)”;

7 (7) in subsection (f), as redesignated by para-
8 graph (4)—

9 (A) by striking “The reports submitted
10 under subsections (c)(1) or (c)(2)” and insert-
11 ing “Each report submitted under subsection
12 (c)”;

13 (B) by striking “subsection (d)(2)” and in-
14 serting “subsection (e)(2)”.

15 **SEC. 505. NATIONAL SECURITY LETTER SUNSET.**

16 (a) REPEAL.—Effective on June 1, 2015—

17 (1) section 2709 of title 18, United States
18 Code, is amended to read as such provision read on
19 October 25, 2001;

20 (2) section 1114 of the Right to Financial Pri-
21 vacy Act of 1978 (12 U.S.C. 3414(a)(5)) is amended
22 to read as such provision read on October 25, 2001;

23 (3) subsections (a) and (b) of section 626 of the
24 Fair Credit Reporting Act (15 U.S.C. 1681u) are
25 amended to read as subsections (a) and (b), respec-

1 tively, of the second of the 2 sections designated as
2 section 624 of such Act (15 U.S.C. 1681u) (relating
3 to disclosure to the Federal Bureau of Investigation
4 for counterintelligence purposes), as added by sec-
5 tion 601 of the Intelligence Authorization Act for
6 Fiscal Year 1996 (Public Law 104–93; 109 Stat.
7 974), read on October 25, 2001; and

8 (4) section 802 of the National Security Act of
9 1947 (50 U.S.C. 3162) is amended to read as such
10 provision read on October 25, 2001.

11 (b) **TRANSITION PROVISION.**—Notwithstanding sub-
12 section (a), the provisions of law referred to in subsection
13 (a), as in effect on May 31, 2015, shall continue to apply
14 on and after June 1, 2015, with respect to any particular
15 foreign intelligence investigation or with respect to any
16 particular offense or potential offense that began or oc-
17 curred before June 1, 2015.

18 **SEC. 506. TECHNICAL AND CONFORMING AMENDMENTS.**

19 Section 3511 of title 18, United States Code, is
20 amended in subsections (a), (c), and (d), by striking “or
21 627(a)” each place it appears.

1 **TITLE VI—FISA AND NATIONAL**
2 **SECURITY LETTER TRANS-**
3 **PARENCY REFORMS**

4 **SEC. 601. THIRD-PARTY REPORTING ON FISA ORDERS AND**
5 **NATIONAL SECURITY LETTERS.**

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

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

17 (1) ESTIMATE OF NUMBERS OF DEMANDS AND
18 REQUESTS MADE.—The report may reveal an esti-
19 mate of the number of the demands and requests de-
20 scribed in subsection (a) made during the period to
21 which the report pertains.

22 (2) ESTIMATE OF NUMBERS OF DEMANDS AND
23 REQUESTS COMPLIED WITH.—The report may reveal
24 an estimate of the numbers of the demands and re-
25 quests described in subsection (a) the electronic

1 service provider complied with during the period to
2 which the report pertains, regardless of when the de-
3 mands or requests were made.

4 (3) ESTIMATE OF NUMBER OF USERS OR AC-
5 COUNTS.—The report may reveal an estimate of the
6 numbers of users or accounts, or both, of the elec-
7 tronic service provider, for which information was
8 demanded, requested, or provided during the period
9 to which the report pertains.

10 (c) SPECIAL RULES FOR REPORTS.—

11 (1) LEVEL OF DETAIL BY AUTHORIZING SUR-
12 VEILLANCE LAW.—Any estimate disclosed under this
13 section may be an overall estimate or broken down
14 by categories of authorizing surveillance laws or by
15 provisions of authorizing surveillance laws.

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

21 (3) REPORT MAY BE BROKEN DOWN BY PERI-
22 ODS NOT LESS THAN CALENDAR QUARTERS.—For
23 any reporting period, an electronic service provider
24 may break down the report by calendar quarters or

1 any other time periods greater than a calendar quar-
2 ter.

3 (d) LIMITATION ON LIABILITY.—An electronic serv-
4 ice provider making a report that the electronic service
5 provider reasonably believes in good faith is authorized by
6 this section is not criminally or civilly liable in any court
7 for making the report.

8 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to prohibit disclosures other than
10 those authorized by this section.

11 (f) DEFINITIONS.—In this section:

12 (1) ELECTRONIC SERVICE PROVIDER.—The
13 term “electronic service provider” means an elec-
14 tronic communications service provider (as that term
15 is defined in section 2510 of title 18, United States
16 Code) or a remote computing service provider (as
17 that term is defined in section 2711 of title 18,
18 United States Code).

19 (2) SURVEILLANCE LAW.—The term “surveil-
20 lance law” means any provision of any of the fol-
21 lowing:

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

24 (B) Section 802(a) of the National Secu-
25 rity Act of 1947 (50 U.S.C. 436(a)).

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

3 (D) Section 1114 of the Right to Financial
4 Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(A)).

5 (E) Subsection (a) or (b) of section 626 of
6 the Fair Credit Reporting Act (15 U.S.C.
7 1681u(a), 1681u(b)).

8 (F) Section 627(a) of the Fair Credit Re-
9 porting Act (15 U.S.C. 1681v(a)) (as in effect
10 on the day before the date of the enactment of
11 this Act).

12 **SEC. 602. GOVERNMENT REPORTING ON FISA ORDERS.**

13 (a) ELECTRONIC SURVEILLANCE.—

14 (1) REPORT OF ELECTRONIC SURVEILLANCE.—
15 Section 107 of the Foreign Intelligence Surveillance
16 Act of 1978 (50 U.S.C. 1807) is amended—

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

19 (B) in the matter preceding paragraph (1)
20 (as redesignated by subparagraph (A) of this
21 paragraph)—

22 (i) by striking “In April” and insert-
23 ing “(a) In April”; and

24 (ii) by striking “Congress” and insert-
25 ing “the Permanent Select Committee on

1 Intelligence and the Committee on the Ju-
2 diciary of the House of Representatives
3 and the Select Committee on Intelligence
4 and the Committee on the Judiciary of the
5 Senate”;

6 (C) in subsection (a) (as designated by
7 subparagraph (B) of this paragraph)—

8 (i) in paragraph (1) (as redesignated
9 by subparagraph (A) of this paragraph),
10 by striking “; and” and inserting a semi-
11 colon;

12 (ii) in paragraph (2) (as so redesign-
13 nated), by striking the period and inserting
14 a semicolon; and

15 (iii) by adding at the end the fol-
16 lowing new paragraphs:

17 “(3) the total number of individuals who were
18 subject to electronic surveillance conducted under an
19 order entered under this title, rounded to the nearest
20 100; and

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

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

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

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

8 (2) CONGRESSIONAL OVERSIGHT.—Section
9 108(a)(1) of the Foreign Intelligence Surveillance
10 Act of 1978 (50 U.S.C. 1808) is amended by strik-
11 ing “the House Permanent Select Committee on In-
12 telligence and the Senate Select Committee on Intel-
13 ligence, and the Committee on the Judiciary of the
14 Senate” and inserting “the Permanent Select Com-
15 mittee on Intelligence and the Committee on the Ju-
16 diciary of the House of Representatives and the Se-
17 lect Committee on Intelligence and the Committee
18 on the Judiciary of the Senate”.

19 (b) PHYSICAL SEARCHES.—Section 306 of the For-
20 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
21 1826) is amended—

22 (1) in the first sentence, by striking “Perma-
23 nent Select Committee on Intelligence of the House
24 of Representatives and the Select Committee on In-
25 telligence of the Senate, and the Committee on the

1 Judiciary of the Senate” and inserting “Permanent
2 Select Committee on Intelligence and the Committee
3 on the Judiciary of the House of Representatives
4 and the Select Committee on Intelligence and the
5 Committee on the Judiciary of the Senate”; and

6 (2) in the second sentence, by striking “and the
7 Committee on the Judiciary of the House of Rep-
8 resentatives”.

9 (c) PEN REGISTER AND TRAP AND TRACE DE-
10 VICES.—Section 406 of the Foreign Intelligence Surveil-
11 lance Act of 1978 (50 U.S.C. 1846) is amended—

12 (1) in subsection (b)—

13 (A) in paragraph (2), by striking “; and”
14 and inserting a semicolon;

15 (B) in paragraph (3), by striking the pe-
16 riod and inserting a semicolon; and

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

19 “(4) each department or agency on behalf of
20 which the Government has made application for or-
21 ders approving the use of pen registers or trap and
22 trace devices under this title;

23 “(5) for each department or agency described in
24 paragraph (4), a breakdown of the numbers required
25 by paragraphs (1), (2), and (3);

1 “(6) a good faith estimate of the total number
2 of individuals who were targeted by the installation
3 and use of a pen register or trap and trace device
4 authorized under an order entered under this title,
5 rounded to the nearest 100;

6 “(7) a good faith estimate of the total number
7 of United States persons who were targeted by the
8 installation and use of a pen register or trap and
9 trace device authorized under an order entered
10 under this title, rounded to the nearest 100; and

11 “(8) a good faith estimate of the total number
12 of United States persons who were targeted by the
13 installation and use of a pen register or trap and
14 trace device authorized under an order entered
15 under this title and whose information acquired by
16 such pen register or trap and trace device was sub-
17 sequently reviewed or accessed by a Federal officer,
18 employee, or agent, rounded to the nearest 100.”;
19 and

20 (2) by adding at the end the following new sub-
21 section:

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

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

4 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
5 OTHER TANGIBLE THINGS.—Section 503 of the Foreign
6 Intelligence Surveillance Act of 1978, as redesignated by
7 section 101(c) of this Act, is amended—

8 (1) in subsection (a), by striking “Permanent
9 Select Committee on Intelligence of the House of
10 Representatives and the Select Committee on Intel-
11 ligence and the Committee on the Judiciary of the
12 Senate” and inserting after “Permanent Select
13 Committee on Intelligence of the House of Rep-
14 resentatives, the Select Committee on Intelligence of
15 the Senate, and the Committees on the Judiciary of
16 the House of Representatives and the Senate”;

17 (2) in subsection (b)—

18 (A) in the matter preceding paragraph (1),
19 by striking “to the preceding calendar year—”
20 and inserting “to the preceding calendar year
21 the following:”;

22 (B) in paragraph (1)—

23 (i) by striking “the total” and insert-
24 ing “The total”; and

1 (ii) by striking the semicolon and in-
2 serting a period;

3 (C) in paragraph (2)—

4 (i) by striking “the total” and insert-
5 ing “The total”; and

6 (ii) by striking “; and” and inserting
7 a period;

8 (D) in paragraph (3)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “the number” and
11 inserting “The number”; and

12 (ii) by adding at the end the following
13 new subparagraphs:

14 “(F) Records concerning electronic com-
15 munications.

16 “(G) Records concerning wire communica-
17 tions.”; and

18 (E) by adding at the end the following new
19 paragraphs:

20 “(4) A description of all other tangible things
21 sought by an application made for the production of
22 any tangible things under section 501, and the num-
23 ber of orders under such section 501 granted, modi-
24 fied, or denied, for each tangible thing.

1 “(5) A description of each order under section
2 501 granted, modified, or denied for the production
3 of tangible things on an ongoing basis.

4 “(6) Each department or agency on whose be-
5 half the Director of the Federal Bureau of Investiga-
6 tion or a designee of the Director has made an ap-
7 plication for an order requiring the production of
8 any tangible things under section 501.

9 “(7) For each department or agency described
10 in paragraph (6), a breakdown of the numbers and
11 descriptions required by paragraphs (1), (2), (3),
12 (4), and (5).”; and

13 (3) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) in subparagraph (A), by striking “;
16 and” and inserting a semicolon;

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

19 (iii) by adding at the end the fol-
20 lowing new subparagraphs:

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

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

5 “(E) a good faith estimate of the total number
6 of United States persons whose tangible things were
7 produced under an order entered under section 501
8 and subsequently reviewed or accessed by a Federal
9 officer, employee, or agent, rounded to the nearest
10 100.”; and

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

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

16 (e) ADDITIONAL PROCEDURES REGARDING CERTAIN
17 PERSONS OUTSIDE THE UNITED STATES.—Section 707
18 of the Foreign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1881f) is amended by adding at the end the fol-
20 lowing new subsection:

21 “(c) ADDITIONAL ANNUAL REPORT.—

22 “(1) REPORT REQUIRED.—In April of each
23 year, the Attorney General shall submit to the Per-
24 manent Select Committee on Intelligence and the
25 Committee on the Judiciary of the House of Rep-

1 representatives and the Select Committee on Intel-
2 ligence and the Committee on the Judiciary of the
3 Senate a report setting forth with respect to the pre-
4 ceding year—

5 “(A) the total number of—

6 “(i) directives issued under section
7 702;

8 “(ii) orders granted under section
9 703; and

10 “(iii) orders granted under section
11 704;

12 “(B) good faith estimates of the total num-
13 ber of individuals, rounded to the nearest 100,
14 whose electronic or wire communications or
15 communications records were collected pursuant
16 to—

17 “(i) a directive issued under section
18 702;

19 “(ii) an order granted under section
20 703; and

21 “(iii) an order granted under section
22 704;

23 “(C) good faith estimates of the total num-
24 ber, rounded to the nearest 100, of United
25 States persons whose electronic or wire commu-

1 communications or communications records were col-
2 lected pursuant to—

3 “(i) a directive issued under section
4 702;

5 “(ii) an order granted under section
6 703; and

7 “(iii) an order granted under section
8 704; and

9 “(D) a good faith estimate of the total
10 number of United States persons whose elec-
11 tronic or wire communications or communica-
12 tions records were collected pursuant to a direc-
13 tive issued under section 702 and subsequently
14 reviewed or accessed by a Federal officer, em-
15 ployee, or agent, rounded to the nearest 100.

16 “(2) FORM.—Each report required under para-
17 graph (1) shall be submitted in unclassified form.

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

1 **SEC. 603. GOVERNMENT REPORTING ON NATIONAL SECUR-**
2 **RITY LETTERS.**

3 Section 118(c) of the USA PATRIOT Improvement
4 and Reauthorization Act of 2005 (18 U.S.C. 3511 note)
5 is amended to read as follows:

6 “(c) REPORT ON REQUESTS FOR NATIONAL SECUR-
7 RITY LETTERS.—

8 “(1) CLASSIFIED FORM.—

9 “(A) IN GENERAL.—Not later than March
10 1, 2015, and every 180 days thereafter, the At-
11 torney General shall submit to the Select Com-
12 mittee on Intelligence, the Committee on the
13 Judiciary, and the Committee on Banking,
14 Housing, and Urban Affairs of the Senate and
15 the Permanent Select Committee on Intel-
16 ligence, the Committee on the Judiciary, and
17 the Committee on Financial Services of the
18 House of Representatives a report fully inform-
19 ing the committees concerning the requests
20 made under section 2709(a) of title 18, United
21 States Code, section 1114 of the Right to Fi-
22 nancial Privacy Act of 1978 (12 U.S.C.
23 3414(a)(5)(A)), section 626 of the Fair Credit
24 Reporting Act (15 U.S.C. 1681u), or section
25 802 of the National Security Act of 1947 (50
26 U.S.C. 3162) during the applicable period.

1 “(B) CONTENTS.—Each report under sub-
2 paragraph (A) shall include, for each provision
3 of law described in subparagraph (A)—

4 “(i) authorized requests under the
5 provision, including requests for subscriber
6 information; and

7 “(ii) the number of authorized re-
8 quests under the provision—

9 “(I) that relate to a United
10 States person;

11 “(II) that relate to a person that
12 is not a United States person;

13 “(III) that relate to a person
14 that is—

15 “(aa) the subject of an au-
16 thorized national security inves-
17 tigation; or

18 “(bb) an individual who has
19 been in contact with or otherwise
20 directly linked to the subject of
21 an authorized national security
22 investigation; and

23 “(IV) that relate to a person that
24 is not known to be the subject of an

1 authorized national security investiga-
2 tion.

3 “(2) UNCLASSIFIED FORM.—

4 “(A) IN GENERAL.—Not later than March
5 1, 2015, and every 180 days thereafter, the At-
6 torney General shall submit to the Select Com-
7 mittee on Intelligence, the Committee on the
8 Judiciary, and the Committee on Banking,
9 Housing, and Urban Affairs of the Senate and
10 the Permanent Select Committee on Intel-
11 ligence, the Committee on the Judiciary, and
12 the Committee on Financial Services of the
13 House of Representatives a report fully inform-
14 ing the committees concerning the aggregate
15 total of all requests identified under paragraph
16 (1) during the applicable period. Each report
17 under this paragraph shall be in unclassified
18 form.

19 “(B) CONTENTS.—Each report under sub-
20 paragraph (A) shall include the aggregate total
21 of requests—

22 “(i) that relate to a United States
23 person;

24 “(ii) that relate to a person that is
25 not a United States person;

1 “(iii) that relate to a person that is—

2 “(I) the subject of an authorized
3 national security investigation; or

4 “(II) an individual who has been
5 in contact with or otherwise directly
6 linked to the subject of an authorized
7 national security investigation; and

8 “(iv) that relate to a person that is
9 not known to be the subject of an author-
10 ized national security investigation.

11 “(3) DEFINITIONS.—In this subsection:

12 “(A) APPLICABLE PERIOD.—The term ‘ap-
13 plicable period’ means—

14 “(i) with respect to the first report
15 submitted under paragraph (1) or (2), the
16 period beginning 180 days after the date
17 of enactment of the USA FREEDOM Act
18 and ending on December 31, 2014; and

19 “(ii) with respect to the second report
20 submitted under paragraph (1) or (2), and
21 each report thereafter, the 6-month period
22 ending on the last day of the second month
23 before the date for submission of the re-
24 port.

