

113TH CONGRESS
1ST SESSION

S. 1551

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 SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 24), 2013

Mr. WYDEN (for himself, Mr. UDALL of Colorado, Mr. BLUMENTHAL, Mr. PAUL, and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN
 INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGA-
 TIONS

Sec. 101. Privacy protections for section 215 business records orders.

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

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

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

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

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

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

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

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

Sec. 305. Challenges to Government surveillance.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT
 REFORMS

Sec. 401. Definitions.

Sec. 402. Office of the Constitutional Advocate.

Sec. 403. Advocacy before the FISA Court.

Sec. 404. Advocacy before the petition review pool.

Sec. 405. Appellate review.

Sec. 406. Disclosure.

Sec. 407. Annual report to Congress.

Sec. 408. Preservation of rights.

TITLE V—NATIONAL SECURITY LETTER REFORMS

Sec. 501. National security letter authority.

Sec. 502. Public reporting on National Security Letters.

TITLE VI—REPORTING FISA ORDERS AND NATIONAL SECURITY
 LETTERS

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

Sec. 602. Government reporting of FISA orders.

TITLE VII—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
SUBPOENA AUTHORITY

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

1 **TITLE I—ACCESS TO CERTAIN**
2 **BUSINESS RECORDS FOR**
3 **FOREIGN INTELLIGENCE AND**
4 **INTERNATIONAL TERRORISM**
5 **INVESTIGATIONS**

6 **SEC. 101. PRIVACY PROTECTIONS FOR SECTION 215 BUSI-**
7 **NESS RECORDS ORDERS.**

8 (a) PRIVACY PROTECTIONS FOR SECTION 215 BUSI-
9 NESS RECORDS ORDERS.—

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

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

15 (B) in paragraph (2), by striking subpara-
16 graphs (A) and (B) and inserting the following:

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

20 “(i) are relevant to an authorized in-
21 vestigation (other than a threat assess-
22 ment) conducted in accordance with sub-
23 section (a)(2) to obtain foreign intelligence

1 information not concerning a United
2 States person or to protect against inter-
3 national terrorism or clandestine intel-
4 ligence activities; and

5 “(ii) pertain to—

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

8 “(II) the activities of a suspected
9 agent of a foreign power who is the
10 subject of such authorized investiga-
11 tion; or

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

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

17 (C) by adding at the end the following:

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

21 “(A) a statement of specific and articulable
22 facts providing reason to believe that disclosure
23 of particular information about the existence or
24 contents of the order requiring the production

1 of tangible things under this section during the
2 applicable time period will result in—

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

5 “(ii) flight from prosecution;

6 “(iii) destruction of or tampering with
7 evidence;

8 “(iv) intimidation of potential wit-
9 nesses;

10 “(v) interference with diplomatic rela-
11 tions; or

12 “(vi) otherwise seriously endangering
13 the national security of the United States
14 by alerting a target, an associate of a tar-
15 get, or the foreign power of which the tar-
16 get is an agent, of the interest of the Gov-
17 ernment in the target;

18 “(B) an explanation of how the harm iden-
19 tified under subparagraph (A) is related to the
20 authorized investigation to which the tangible
21 things sought are relevant;

22 “(C) an explanation of how the nondislo-
23 sure requirement is narrowly tailored to address
24 the specific harm identified under subparagraph
25 (A); and

1 “(D) the time period during which the
2 Government believes the nondisclosure require-
3 ment should apply.”.

4 (2) ORDER.—Section 501(c) of the Foreign In-
5 telligence Surveillance Act of 1978 (50 U.S.C.
6 1861(c)) is amended—

7 (A) in paragraph (1)—

8 (i) by striking “subsections (a) and
9 (b),” and inserting “subsection (a) and
10 paragraphs (1) and (2) of subsection (b)
11 and that the proposed minimization proce-
12 dures meet the definition of minimization
13 procedures under subsection (g),”; and

14 (ii) by striking the last sentence and
15 inserting the following: “If the judge finds
16 that the requirements of subsection (b)(3)
17 have been met, such order shall include a
18 nondisclosure requirement, which may
19 apply for not longer than 1 year, unless
20 the facts justify a longer period of non-
21 disclosure, subject to the principles and
22 procedures described in subsection (d).”;
23 and

24 (B) in paragraph (2)—

1 (i) in subparagraph (C), by striking
2 “(d);” and inserting “(d), if applicable;”;

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

5 (iii) in subparagraph (E), by striking
6 the period at the end and inserting “;
7 and”; and

8 (iv) by adding at the end the fol-
9 lowing:

10 “(F) shall direct that the minimization
11 procedures be followed.”.

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

15 “(d) NONDISCLOSURE.—

16 “(1) IN GENERAL.—No person who receives an
17 order under subsection (e) that contains a nondisclo-
18 sure requirement shall disclose to any person the
19 particular information specified in the nondisclosure
20 requirement during the time period to which the re-
21 quirement applies.

22 “(2) EXCEPTION.—

23 “(A) DISCLOSURE.—A person who receives
24 an order under subsection (e) that contains a
25 nondisclosure requirement may disclose infor-

1 mation otherwise subject to any applicable non-
2 disclosure requirement to—

3 “(i) those persons to whom disclosure
4 is necessary in order to comply with an
5 order under this section;

6 “(ii) an attorney in order to obtain
7 legal advice or assistance regarding the
8 order; or

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

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

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

23 “(3) EXTENSION.—The Director of the Federal
24 Bureau of Investigation, or a designee of the Direc-
25 tor (whose rank shall be no lower than Assistant

1 Special Agent in Charge), may apply for renewals of
2 the prohibition on disclosure of particular informa-
3 tion about the existence or contents of an order re-
4 quiring the production of tangible things under this
5 section for additional periods of not longer than 1
6 year, unless the facts justify a longer period of non-
7 disclosure. A nondisclosure requirement shall be re-
8 newed if a court having jurisdiction under paragraph
9 (4) determines that the application meets the re-
10 quirements of subsection (b)(3).

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

13 “(A) a judge of the court established under
14 section 103(a); or

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

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

1 (A) in paragraph (1), by striking “Not
2 later than” and all that follows and inserting
3 “At or before the end of the period of time for
4 the production of tangible things under an
5 order approved under this section or at any
6 time after the production of tangible things
7 under an order approved under this section, a
8 judge may assess compliance with the mini-
9 mization procedures by reviewing the cir-
10 cumstances under which information concerning
11 United States persons was acquired, retained,
12 or disseminated.”; and

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

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

18 (1) in subparagraph (A)(i)—

19 (A) by striking “that order” and inserting
20 “such production order or any nondisclosure
21 order imposed in connection with such produc-
22 tion order”; and

23 (B) by striking the second sentence;

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

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

4 “(i) there is reason to believe that disclosure of
5 the information subject to the nondisclosure require-
6 ment during the applicable time period will result
7 in—

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

10 “(II) flight from prosecution;

11 “(III) destruction of or tampering with evi-
12 dence;

13 “(IV) intimidation of potential witnesses;

14 “(V) interference with diplomatic relations;

15 or

16 “(VI) otherwise seriously endangering the
17 national security of the United States by alert-
18 ing a target, an associate of a target, or the
19 foreign power of which the target is an agent,
20 of the interest of the Government in the target;

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

1 “(iii) the nondisclosure requirement is narrowly
2 tailored to address the specific harm identified under
3 clause (i).”; and

4 (3) by adding at the end the following new sub-
5 paragraph:

6 “(E) If a judge denies a petition to modify or set
7 aside a nondisclosure order under this paragraph, no per-
8 son may file another petition to modify or set aside such
9 nondisclosure order until the date that is one year after
10 the date on which such judge issues the denial of such
11 petition.”.

12 **SEC. 102. EMERGENCY AUTHORITY FOR ACCESS TO CALL**
13 **DATA RECORDS.**

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

17 “(e)(1) Notwithstanding any other provision of this
18 subsection, the Attorney General may require the produc-
19 tion of call data records by the provider of a wire or elec-
20 tronic communication service on an emergency basis if—

21 “(A) such records—

22 “(i) are relevant to an authorized inves-
23 tigation (other than a threat assessment) con-
24 ducted in accordance with section 402 or 501,
25 as appropriate, to obtain foreign intelligence in-

1 formation not concerning a United States per-
2 son or to protect against international terrorism
3 or clandestine intelligence activities; and

4 “(ii) pertain to—

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

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

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

13 “(B) the Attorney General reasonably deter-
14 mines—

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

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

22 “(C) a judge referred to in section 402(b) or
23 501(b)(1), as appropriate, is informed by the Attor-
24 ney General at the time of the required production

1 of such records that the decision has been made to
2 require such production on an emergency basis; and

3 “(D) an application in accordance with section
4 402 or 501, as appropriate, is made to such judge
5 as soon as practicable, but not more than 7 days
6 after the date on which the Attorney General re-
7 quires the production of such records under this
8 subsection.

9 “(2)(A) In the absence of an order issued under sec-
10 tion 402 or 501, as appropriate, to approve the emergency
11 required production of call data records under paragraph
12 (1), the authority to require the production of such records
13 shall terminate at the earlier of—

14 “(i) when the information sought is obtained;

15 “(ii) when the application for the order is de-
16 nied under section 402 or 501, as appropriate; or

17 “(iii) 7 days after the time of the authorization
18 by the Attorney General.

19 “(B) If an application for an order applied for under
20 section 402 or 501, as appropriate, for the production of
21 call data records required to be produced pursuant to
22 paragraph (1) is denied, or in any other case where the
23 emergency production of call data records under this sec-
24 tion is terminated and no order under section 402 or 501,
25 as appropriate, is issued approving the required produc-

1 tion of such records, no information obtained or evidence
2 derived from such records shall be received in evidence or
3 otherwise disclosed in any trial, hearing, or other pro-
4 ceeding in or before any court, grand jury, department,
5 office, agency, regulatory body, legislative committee, or
6 other authority of the United States, a State, or political
7 subdivision thereof, and no information concerning any
8 United States person acquired from such records shall
9 subsequently be used or disclosed in any other manner by
10 Federal officers or employees without the consent of such
11 person, except with the approval of the Attorney General
12 if the information indicates a threat of death or serious
13 bodily harm to any person.”.

14 (b) TERMINATION OF SECTION 501 REFERENCES.—
15 On the date that section 102(b)(1) of the USA PATRIOT
16 Improvement and Reauthorization Act of 2005 (Public
17 Law 109–177; 50 U.S.C. 1805 note) takes effect, sub-
18 section (e) of section 403 of the Foreign Intelligence Sur-
19 veillance Act of 1978 (50 U.S.C. 1843), as added by para-
20 graph (1), is amended—

21 (1) by striking “or section 501, as appro-
22 priate,” each place that term appears;

23 (2) in paragraph (1)—

1 (A) in subparagraph (B), by striking “or
2 501, as appropriate;” and by inserting a semi-
3 colon; and

4 (B) in subparagraph (C), by striking “or
5 501(b)(1), as appropriate;” and

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

8 **TITLE II—PRIVACY PROTEC-**
9 **TIONS FOR PEN REGISTERS**
10 **AND TRAP AND TRACE DE-**
11 **VICES**

12 **SEC. 201. PRIVACY PROTECTIONS FOR PEN REGISTERS**
13 **AND TRAP AND TRACE DEVICES.**

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

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

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

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

24 “(A) are relevant to an authorized inves-
25 tigation to obtain foreign intelligence informa-

1 tion not concerning a United States person or
2 to protect against international terrorism or
3 clandestine intelligence activities (other than a
4 threat assessment), provided that such inves-
5 tigation of a United States person is not con-
6 ducted solely upon the basis of activities pro-
7 tected by the first amendment to the Constitu-
8 tion; and

9 “(B) pertain to—

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

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

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

18 “(3) a statement of proposed minimization pro-
19 cedures.”.

20 (b) MINIMIZATION.—

21 (1) DEFINITION.—Section 401 of the Foreign
22 Intelligence Surveillance Act of 1978 (50 U.S.C.
23 1841) is amended by adding at the end the fol-
24 lowing:

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

3 “(A) specific procedures that are reason-
4 ably designed in light of the purpose and tech-
5 nique of an order for the installation and use
6 of a pen register or trap and trace device, to
7 minimize the acquisition and retention, and pro-
8 hibit the dissemination, of nonpublicly available
9 information concerning unconsenting United
10 States persons consistent with the need of the
11 United States to obtain, produce, and dissemi-
12 nate foreign intelligence information;

13 “(B) procedures that require that nonpub-
14 licly available information, which is not foreign
15 intelligence information, as defined in section
16 101(e)(1), shall not be disseminated in a man-
17 ner that identifies any United States person,
18 without such person’s consent, unless such per-
19 son’s identity is necessary to understand foreign
20 intelligence information or assess its impor-
21 tance; and

22 “(C) notwithstanding subparagraphs (A)
23 and (B), procedures that allow for the retention
24 and dissemination of information that is evi-
25 dence of a crime which has been, is being, or

1 is about to be committed and that is to be re-
2 tained or disseminated for law enforcement pur-
3 poses.”.

4 (2) PEN REGISTERS AND TRAP AND TRACE DE-
5 VICES.—Section 402 of the Foreign Intelligence Sur-
6 veillance Act of 1978 (50 U.S.C. 1842) is amend-
7 ed—

8 (A) in subsection (d)—

9 (i) in paragraph (1), by inserting “,
10 and that the proposed minimization proce-
11 dures meet the definition of minimization
12 procedures under this title” before the pe-
13 riod at the end; and

14 (ii) in paragraph (2)(B)—

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

17 (II) by adding at the end the fol-
18 lowing:

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

21 (B) by adding at the end the following:

22 “(h) At or before the end of the period of time for
23 which the installation and use of a pen register or trap
24 and trace device is approved under an order or an exten-
25 sion under this section, the judge may assess compliance

1 with the minimization procedures by reviewing the cir-
2 cumstances under which information concerning United
3 States persons was acquired, retained, or disseminated.”.

4 (3) EMERGENCIES.—Section 403 of the For-
5 eign Intelligence Surveillance Act of 1978 (50
6 U.S.C. 1843), as amended by section 102(a), is fur-
7 ther amended—

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

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

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

17 (4) USE OF INFORMATION.—Section 405(a)(1)
18 of the Foreign Intelligence Surveillance Act of 1978
19 (50 U.S.C. 1845(a)(1)) is amended by striking the
20 period at the end and inserting “and the minimiza-
21 tion procedures required under the order approving
22 such pen register or trap and trace device.”.

1 **TITLE III—PROCEDURES FOR**
 2 **TARGETING CERTAIN PER-**
 3 **SONS OUTSIDE THE UNITED**
 4 **STATES OTHER THAN UNITED**
 5 **STATES PERSONS**

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

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

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

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

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

20 (3) by adding at the end the following:

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

24 “(A) IN GENERAL.—Except as provided in
 25 subparagraph (B), no officer or employee of the

1 United States may conduct a search of a collec-
2 tion of communications acquired under this sec-
3 tion in an effort to find communications of a
4 particular United States person (other than a
5 corporation).

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

11 “(i) such United States person is the
12 subject of an order or emergency author-
13 ization authorizing electronic surveillance
14 or physical search under section 105, 304,
15 703, 704, or 705 of this Act, or under title
16 18, United States Code, for the effective
17 period of that order;

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

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

1 **SEC. 302. PROTECTION AGAINST COLLECTION OF WHOLLY**
2 **DOMESTIC COMMUNICATIONS NOT CON-**
3 **CERNING TERRORISM UNDER FISA AMEND-**
4 **MENTS ACT.**

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

8 (1) in subsection (d)(1)—

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

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

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

15 “(C) limit the acquisition of the contents
16 of any communication to communications to
17 which any party is a target of the acquisition
18 or communications that refer to the target of
19 the acquisition, if such communications are ac-
20 quired to protect against international ter-
21 rorism.”; and

22 (2) in subsection (i)(2)(B)—

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

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

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

3 “(iii) limit the acquisition of the con-
4 tents of any communication to communica-
5 tions to which any party is a target of the
6 acquisition or communications that refer to
7 the target of the acquisition, if such com-
8 munications are acquired to protect
9 against international terrorism.”.

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

14 **SEC. 303. PROHIBITION ON REVERSE TARGETING UNDER**
15 **FISA AMENDMENTS ACT.**

16 Section 702 of the Foreign Intelligence Surveillance
17 Act of 1978 (50 U.S.C. 1881a), as amended by sections
18 301 and 302 of this Act, is further amended—

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

22 (2) in subsection (d)(1)(A)—

23 (A) by striking “ensure that” and insert-
24 ing the following: “ensure—

25 “(i) that”; and

1 (B) by adding at the end the following:

2 “(ii) that an application is filed under
3 title I, if otherwise required, when a sig-
4 nificant purpose of an acquisition author-
5 ized under subsection (a) is to acquire the
6 communications of a particular, known
7 person reasonably believed to be located in
8 the United States; and”;

9 (3) in subsection (g)(2)(A)(i)(I)—

10 (A) by striking “ensure that” and insert-
11 ing the following: “ensure—

12 “(aa) that”; and

13 (B) by adding at the end the following:

14 “(bb) that an application is
15 filed under title I, if otherwise re-
16 quired, when a significant pur-
17 pose of an acquisition authorized
18 under subsection (a) is to acquire
19 the communications of a par-
20 ticular, known person reasonably
21 believed to be located in the
22 United States; and”; and

23 (4) in subsection (i)(2)(B)(i)—

24 (A) by striking “ensure that” and insert-
25 ing the following: “ensure—

1 “(I) that”; and

2 (B) by adding at the end the following:

3 “(II) that an application is filed
4 under title I, if otherwise required,
5 when a significant purpose of an ac-
6 quisition authorized under subsection
7 (a) is to acquire the communications
8 of a particular, known person reason-
9 ably believed to be located in the
10 United States; and”.

11 **SEC. 304. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
12 **FORMATION UNDER FISA AMENDMENTS ACT.**

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

16 “(B) CORRECTION OF DEFICIENCIES.—

17 “(i) IN GENERAL.—If the Court finds
18 that a certification required by subsection
19 (g) does not contain all of the required ele-
20 ments, or that the procedures required by
21 subsections (d) and (e) are not consistent
22 with the requirements of those subsections
23 or the fourth amendment to the Constitu-
24 tion of the United States, the Court shall
25 issue an order directing the Government

1 to, at the Government’s election and to the
2 extent required by the order of the
3 Court—

4 “(I) correct any deficiency identi-
5 fied by the order of the Court not
6 later than 30 days after the date on
7 which the Court issues the order; or

8 “(II) cease, or not begin, the im-
9 plementation of the authorization for
10 which such certification was sub-
11 mitted.

12 “(ii) LIMITATION ON USE OF INFOR-
13 MATION.—

14 “(I) IN GENERAL.—Except as
15 provided in subclause (II), no infor-
16 mation obtained or evidence derived
17 from an acquisition pursuant to a cer-
18 tification or targeting or minimization
19 procedures subject to an order under
20 clause (i) concerning any United
21 States person shall be received in evi-
22 dence or otherwise disclosed in any
23 trial, hearing, or other proceeding in
24 or before any court, grand jury, de-
25 partment, office, agency, regulatory

1 body, legislative committee, or other
2 authority of the United States, a
3 State, or political subdivision thereof,
4 and no information concerning any
5 United States person acquired from
6 the acquisition shall subsequently be
7 used or disclosed in any other manner
8 by Federal officers or employees with-
9 out the consent of the United States
10 person, except with the approval of
11 the Attorney General if the informa-
12 tion indicates a threat of death or se-
13 rious bodily harm to any person.

14 “(II) EXCEPTION.—If the Gov-
15 ernment corrects any deficiency iden-
16 tified by the order of the Court under
17 clause (i), the Court may permit the
18 use or disclosure of information ac-
19 quired before the date of the correc-
20 tion under such minimization proce-
21 dures as the Court shall establish for
22 purposes of this clause.”.

23 **SEC. 305. CHALLENGES TO GOVERNMENT SURVEILLANCE.**

24 Section 702 of the Foreign Intelligence Surveillance
25 Act of 1978 (50 U.S.C. 1881a), as amended by this title,

1 is further amended by adding at the end the following new
2 subsection:

3 “(m) CHALLENGES TO GOVERNMENT SURVEIL-
4 LANCE.—

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

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

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

15 “(2) REASONABLE BASIS.—A person shall be
16 presumed to have demonstrated a reasonable basis
17 to believe that the communications of the person will
18 be acquired under this section if the profession of
19 the person requires the person regularly to commu-
20 nicate foreign intelligence information with persons
21 who—

22 “(A) are not United States persons; and

23 “(B) are located outside the United States.

24 “(3) OBJECTIVE STEPS.—A person shall be pre-
25 sumed to have taken objectively reasonable steps to

1 avoid surveillance under this section if the person
2 demonstrates that the steps were taken in reason-
3 able response to rules of professional conduct or
4 analogous professional rules.”.

5 **TITLE IV—FOREIGN INTEL-**
6 **LIGENCE SURVEILLANCE**
7 **COURT REFORMS**

8 **SEC. 401. DEFINITIONS.**

9 In this title:

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

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

16 (3) FISA.—The term “FISA” means the For-
17 eign Intelligence Surveillance Act of 1978 (50
18 U.S.C. 1801 et seq.).

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

22 (5) FISA COURT OF REVIEW.—The term
23 “FISA Court of Review” means the court of review
24 established under section 103(b) of FISA (50 U.S.C.
25 1803(b)).

1 (6) OFFICE.—The term “Office” means the Of-
2 fice of the Constitutional Advocate established under
3 section 402(a).

4 (7) PETITION REVIEW POOL.—The term “peti-
5 tion review pool” means the petition review pool es-
6 tablished by section 103(e) of FISA (50 U.S.C.
7 1803(e)) or any member of that pool.

8 (8) SIGNIFICANT CONSTRUCTION OR INTERPRE-
9 TATION OF LAW.—The term “significant construc-
10 tion or interpretation of law” means a significant
11 construction or interpretation of a provision, as that
12 term is construed under section 601(c) of FISA (50
13 U.S.C. 1871(c)).

14 **SEC. 402. OFFICE OF THE CONSTITUTIONAL ADVOCATE.**

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

18 (b) CONSTITUTIONAL ADVOCATE.—

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

21 (2) APPOINTMENT AND TERM.—

22 (A) APPOINTMENT.—The Chief Justice of
23 the United States shall appoint the Constitu-
24 tional Advocate from the list of candidates sub-
25 mitted under subparagraph (B).

1 (B) CANDIDATES.—

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

7 (ii) SELECTION OF CANDIDATES.—In
8 preparing a list described in clause (i), the
9 Privacy and Civil Liberties Oversight
10 Board shall select candidates the Board
11 believes will be zealous and effective advo-
12 cates in defense of civil liberties and con-
13 sider each potential candidate's—

14 (I) litigation and other profes-
15 sional experience;

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

20 (III) demonstrated commitment
21 to civil liberties.

22 (C) SECURITY CLEARANCE.—An individual
23 may be appointed Constitutional Advocate with-
24 out regard to whether the individual possesses

1 a security clearance on the date of the appoint-
2 ment.

3 (D) TERM AND DISMISSAL.—A Constitu-
4 tional Advocate shall be appointed for a term of
5 3 years and may be fired only for good cause
6 shown, including the demonstrated inability to
7 qualify for an adequate security clearance.

8 (E) REAPPOINTMENT.—There shall be no
9 limit to the number of consecutive terms served
10 by a Constitutional Advocate. The reappoint-
11 ment of a Constitutional Advocate shall be
12 made in the same manner as appointment of a
13 Constitutional Advocate.

14 (F) ACTING CONSTITUTIONAL ADVOCATE.—If the position of Constitutional Advoca-
15 te is vacant, the Chief Justice may appoint
16 an Acting Constitutional Advocate from among
17 the qualified employees of the Office. If there
18 are no such qualified employees, the Chief Jus-
19 tice may appoint an Acting Constitutional Ad-
20 vocate from the most recent list of candidates
21 provided by the Privacy and Civil Liberties
22 Oversight Board pursuant to subparagraph (B).
23 The Acting Constitutional Advocate shall have
24 all of the powers of a Constitutional Advocate
25

1 and shall serve until a Constitutional Advocate
2 is appointed.

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

7 (c) SECURITY CLEARANCES.—The appropriate de-
8 partments, agencies, and elements of the executive branch
9 shall cooperate with the Office, to the extent possible
10 under existing procedures and requirements, to expedi-
11 tiously provide the Constitutional Advocate and appro-
12 priate employees of the Office with the security clearances
13 necessary to carry out the duties of the Constitutional Ad-
14 vocate.

15 (d) DUTIES AND AUTHORITIES OF THE CONSTITU-
16 TIONAL ADVOCATE.—

17 (1) IN GENERAL.—The Constitutional Advo-
18 cate—

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

21 (B) shall review each decision of the FISA
22 Court, the petition review pool, or the FISA
23 Court of Review issued after the date of the en-
24 actment of this Act and all documents and

1 other material relevant to such decision in a
2 complete, unredacted form;

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

7 (D) shall consider any request from a pro-
8 vider who has been served with an order, certifi-
9 cation, or directive compelling the provider to
10 provide assistance to the Government or to re-
11 lease customer information to assist that pro-
12 vider in a proceeding before the FISA Court or
13 the petition review pool, including a request—

14 (i) to oppose the Government on be-
15 half of the private party in such a pro-
16 ceeding; or

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

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

1 (F) may request to participate in a pro-
2 ceeding before the FISA Court or the petition
3 review pool;

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

6 (H) may request reconsideration of a deci-
7 sion of the FISA Court under section 403(b);

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

12 (J) shall participate in such appeal or re-
13 view.

14 (2) ADVOCACY.—The Constitutional Advocate
15 shall protect individual rights by vigorously advo-
16 cating before the FISA Court, the petition review
17 pool, or the FISA Court of Review, as appropriate,
18 in support of legal interpretations that minimize the
19 scope of surveillance and the extent of data collec-
20 tion and retention.

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

23 (A) may delegate to a competent outside
24 counsel any duty or responsibility of the Con-
25 stitutional Advocate with respect to participa-

1 tion in a matter before the FISA Court, the
2 FISA Court of Review, or the Supreme Court
3 of the United States; and

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

7 (4) AVAILABILITY OF DOCUMENTS AND MATE-
8 RIAL.—The FISA Court, the petition review pool, or
9 the FISA Court of Review, as appropriate, shall
10 order any agency, department, or entity to make
11 available to the Constitutional Advocate, or appro-
12 priate outside counsel if utilized by the Constitu-
13 tional Advocate under paragraph (3), any documents
14 or other material necessary to carry out the duties
15 described in paragraph (1).

16 **SEC. 403. ADVOCACY BEFORE THE FISA COURT.**

17 (a) APPOINTMENT TO PARTICIPATE.—

18 (1) IN GENERAL.—The FISA Court may ap-
19 point the Constitutional Advocate to participate in a
20 FISA Court proceeding.

21 (2) STANDING.—If the Constitutional Advocate
22 is appointed to participate in a FISA Court pro-
23 ceeding pursuant to paragraph (1), the Constitu-
24 tional Advocate shall have standing as a party before
25 the FISA Court in that proceeding.

1 (b) RECONSIDERATION OF A FISA COURT DECI-
2 SION.—

3 (1) AUTHORITY TO MOVE FOR RECONSIDER-
4 ATION.—The Constitutional Advocate may move the
5 FISA Court to reconsider any decision of the FISA
6 Court made after the date of the enactment of this
7 Act by petitioning the FISA Court not later than 30
8 days after the date on which all documents and ma-
9 terials relevant to the decision are made available to
10 the Constitutional Advocate.

11 (2) DISCRETION OF THE FISA COURT.—The
12 FISA Court shall have discretion to grant or deny
13 a motion for reconsideration made pursuant to para-
14 graph (1).

15 (c) AMICUS CURIAE PARTICIPATION.—

16 (1) MOTION BY THE CONSTITUTIONAL ADVO-
17 CATE.—The Constitutional Advocate may file a mo-
18 tion with the FISA Court to permit and facilitate
19 participation of amicus curiae, including participa-
20 tion in oral argument if appropriate, in any pro-
21 ceeding. The FISA Court shall have the discretion
22 to grant or deny such a motion.

23 (2) FACILITATION BY THE FISA COURT.—The
24 FISA Court may, sua sponte, permit and facilitate
25 participation by amicus curiae, including participa-

1 tion in oral argument if appropriate, in proceedings
2 before the FISA Court.

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

8 **SEC. 404. ADVOCACY BEFORE THE PETITION REVIEW POOL.**

9 (a) AUTHORITY TO PARTICIPATE.—The petition re-
10 view pool or any party to a proceeding before the petition
11 review pool may authorize the Constitutional Advocate to
12 participate in a petition review pool proceeding.

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

15 (1) AUTHORITY TO MOVE FOR RECONSIDER-
16 ATION.—The Constitutional Advocate may move the
17 petition review pool to reconsider any decision of the
18 petition review pool made after the date of the en-
19 actment of this Act by petitioning the petition review
20 pool not later than 30 days after the date on which
21 all documents and materials relevant to the decision
22 are made available to the Constitutional Advocate.

23 (2) DISCRETION OF THE PETITION REVIEW
24 POOL.—The petition review pool shall have discre-

1 tion to grant or deny a motion for reconsideration
2 made pursuant to paragraph (1).

3 (c) *AMICUS CURIAE PARTICIPATION.*—

4 (1) *MOTION BY THE CONSTITUTIONAL ADVOCATE.*—The Constitutional Advocate may file a mo-
5 tion with the petition review pool to permit and fa-
6 cilitate participation of amicus curiae, including par-
7 ticipation in oral argument if appropriate, in any
8 proceeding. The petition review pool shall have the
9 discretion to grant or deny such a motion.
10

11 (2) *FACILITATION BY THE FISA COURT.*—The
12 petition review pool may, sua sponte, permit and fa-
13 cilitate participation by amicus curiae, including par-
14 ticipation in oral argument if appropriate, in pro-
15 ceedings before the petition review pool.

16 (3) *REGULATIONS.*—Not later than 180 days
17 after the date of the enactment of this Act, the peti-
18 tion review pool shall promulgate rules to provide
19 the public with information sufficient to allow inter-
20 ested parties to participate as amicus curiae.

21 **SEC. 405. APPELLATE REVIEW.**

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

23 (1) *AUTHORITY TO APPEAL.*—The Constitu-
24 tional Advocate may appeal any decision of the
25 FISA Court or the petition review pool issued after

1 the date of the enactment of this Act not later than
2 90 days after the date the decision is issued, unless
3 it would be apparent to all reasonable jurists that
4 such decision is dictated by statute or by precedent
5 handed down after such date of enactment.

6 (2) **STANDING AS APPELLANT.**—If the Con-
7 stitutional Advocate appeals a decision of the FISA
8 Court or the petition review pool pursuant to para-
9 graph (1), the Constitutional Advocate shall have
10 standing as a party before the FISA Court of Re-
11 view in such appeal.

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

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

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

21 and

22 (B) clearly erroneous with respect to deter-
23 mination of facts.

24 (5) **AMICUS CURIAE PARTICIPATION.**—

1 (A) IN GENERAL.—The FISA Court of Re-
2 view shall accept amicus curiae briefs from in-
3 terested parties in all mandatory reviews pursu-
4 ant to paragraph (3) and shall provide for ami-
5 cus curiae participation in oral argument if ap-
6 propriate.

7 (B) REGULATIONS.—Not later than 180
8 days after the date of the enactment of this
9 Act, the FISA Court of Review shall promul-
10 gate rules to provide the public with informa-
11 tion sufficient to allow interested parties to par-
12 ticipate as amicus curiae.

13 (b) REVIEW OF FISA COURT OF REVIEW DECI-
14 SIONS.—

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

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

1 **SEC. 406. DISCLOSURE.**

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

4 (1) all decisions issued by the FISA Court, the
5 petition review pool, or the FISA Court of Review
6 after July 10, 2003, that include a significant con-
7 struction or interpretation of law;

8 (2) any decision of the FISA Court or the peti-
9 tion review pool appealed by the Constitutional Ad-
10 vocate pursuant to this title; and

11 (3) any FISA Court of Review decision that is
12 issued after an appeal by the Constitutional Advo-
13 cate.

14 (b) **DISCLOSURE DESCRIBED.**—For each disclosure
15 required by subsection (a) with respect to a decision, the
16 Attorney General shall make available to the public docu-
17 ments sufficient—

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

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

23 (3) to describe the construction or interpreta-
24 tion of any statute, constitutional provision, or other
25 legal authority relied on by the decision; and

1 (4) to indicate whether the decision departed
2 from any prior decision of the FISA Court, the peti-
3 tion review pool, or the FISA Court of Review.

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

7 (1) releasing a FISA Court, petition review
8 pool, or FISA Court of Review decision in its en-
9 tirety or as redacted;

10 (2) releasing a summary of a FISA Court, peti-
11 tion review pool, or FISA Court of Review decision;

12 or

13 (3) releasing an application made to the FISA
14 Court, a petition made to the petition review pool,
15 briefs filed before the FISA Court, the petition re-
16 view pool, or the FISA Court of Review, or other
17 materials, in full or as redacted.

18 (d) EXTENSIVE DISCLOSURE.—The Attorney Gen-
19 eral shall release as much information regarding the facts
20 and analysis contained in a decision described in sub-
21 section (a) or documents described in subsection (c) as is
22 consistent with legitimate national security concerns.

23 (e) TIMING OF DISCLOSURE.—

24 (1) DECISIONS ISSUED PRIOR TO ENACT-
25 MENT.—A decision issued prior to the date of the

1 enactment of this Act that is required to be disclosed
2 under subsection (a)(1) shall be disclosed not later
3 than 180 days after the date of the enactment of
4 this Act.

5 (2) FISA COURT AND PETITION REVIEW POOL
6 DECISIONS.—The Attorney General shall release
7 FISA Court or petition review pool decisions ap-
8 pealed by the Constitutional Advocate not later than
9 30 days after the date the appeal is filed.

10 (3) FISA COURT OF REVIEW DECISIONS.—The
11 Attorney General shall release FISA Court of Re-
12 view decisions appealed by the Constitutional Advo-
13 cate not later than 90 days after the date the appeal
14 is filed.

15 (f) PETITION BY THE CONSTITUTIONAL ADVO-
16 CATE.—

17 (1) AUTHORITY TO PETITION.—The Constitu-
18 tional Advocate may petition the FISA Court, the
19 petition review pool, or the FISA Court of Review to
20 order—

21 (A) the public disclosure of a decision of
22 such a Court or review pool, and documents or
23 other material relevant to such a decision, pre-
24 viously designated as classified information; or

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

3 (2) CONTENTS OF PETITION.—Each petition
4 filed under paragraph (1) shall contain a detailed
5 declassification proposal or a summary of the deci-
6 sion and documents that the Constitutional Advocate
7 proposes to have released publicly.

8 (3) ROLE OF THE ATTORNEY GENERAL.—

9 (A) COPY OF PETITION.—The Constitu-
10 tional Advocate shall provide to the Attorney
11 General a copy of each petition filed under
12 paragraph (1).

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

20 (4) PUBLIC AVAILABILITY.—Not less than 91
21 days after receiving a petition under paragraph (1),
22 and taking into account any objections from the At-
23 torney General made under paragraph (3)(B), the
24 FISA Court, the petition review pool, or the FISA
25 Court of Review, as appropriate, shall declassify and

1 make readily available to the public any decision,
2 document, or other material requested in such peti-
3 tion, to the greatest extent possible, consistent with
4 legitimate national security considerations.

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

10 **SEC. 407. ANNUAL REPORT TO CONGRESS.**

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

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

16 (1) detail the activities of the Office;

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

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

23 **SEC. 408. PRESERVATION OF RIGHTS.**

24 Nothing in this title shall be construed—

1 (1) to provide the Attorney General with au-
2 thority to prevent the FISA Court, the petition re-
3 view pool, or the FISA Court of Review from declas-
4 sifying decisions or releasing information pursuant
5 to this title; and

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

10 **TITLE V—NATIONAL SECURITY**
11 **LETTER REFORMS**

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

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

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

18 “(1) request the name, address, length of serv-
19 ice, and local and long distance toll billing records
20 of a person or entity if the Director (or the Direc-
21 tor’s designee) certifies in writing to the wire or
22 electronic communication service provider to which
23 the request is made that—

24 “(A) the name, address, length of service,
25 and toll billing records sought are relevant to

1 an authorized investigation to protect against
2 international terrorism or clandestine intel-
3 ligence activities, provided that such an inves-
4 tigation of a United States person is not con-
5 ducted solely on the basis of activities protected
6 by the first amendment to the Constitution of
7 the United States; and

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

12 “(i) pertain to a foreign power or
13 agent of a foreign power;

14 “(ii) are relevant to the activities of a
15 suspected agent of a foreign power who is
16 the subject of such authorized investiga-
17 tion; or

18 “(iii) pertain to an individual in con-
19 tact with, or known to, a suspected agent;
20 and

21 “(2) request the name, address, and length of
22 service of a person or entity if the Director (or the
23 Director’s designee) certifies in writing to the wire
24 or electronic communication service provider to
25 which the request is made that—

1 “(A) the information sought is relevant to
2 an authorized investigation to protect against
3 international terrorism or clandestine intel-
4 ligence activities, provided that such an inves-
5 tigation of a United States person is not con-
6 ducted solely upon the basis of activities pro-
7 tected by the first amendment to the Constitu-
8 tion of the United States; and

9 “(B) there are specific and articulable
10 facts showing that there are reasonable grounds
11 to believe that the information sought pertains
12 to—

13 “(i) a foreign power or agent of a for-
14 eign power;

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

18 “(iii) an individual in contact with, or
19 known to, a suspected agent.”.

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

1 **“SEC. 1114. NATIONAL SECURITY LETTER FOR CERTAIN FI-**
2 **NANCIAL RECORDS.**

3 “(a) AUTHORIZATION.—

4 “(1) IN GENERAL.—The Director of the Fed-
5 eral Bureau of Investigation, or a designee of the
6 Director whose rank shall be no lower than Deputy
7 Assistant Director at Bureau headquarters or Spe-
8 cial Agent in Charge in a Bureau field office, or the
9 Director of the United States Secret Service may
10 issue in writing and cause to be served on a financial
11 institution, a National Security Letter requiring the
12 production of—

13 “(A) the name of a customer of the finan-
14 cial institution;

15 “(B) the address of a customer of the fi-
16 nancial institution;

17 “(C) the length of time during which a
18 person has been, or was, a customer of the fi-
19 nancial institution (including the start date)
20 and the type of service provided by the institu-
21 tion to the customer; and

22 “(D) any account number or other unique
23 identifier associated with a customer of the fi-
24 nancial institution.

25 “(2) LIMITATION.—A National Security Letter
26 issued under this subsection may not require the

1 production of records or information not listed in
2 paragraph (1).

3 “(b) NATIONAL SECURITY LETTER REQUIRE-
4 MENTS.—

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

7 “(A) be subject to the requirements of sub-
8 sections (b) through (f) of section 2709 of title
9 18, United States Code, in the same manner
10 and to the same extent as those provisions
11 apply with respect to a request under section
12 2709(b) of title 18, United States Code, to a
13 wire or electronic communication service pro-
14 vider;

15 “(B)(i) in the case of a National Security
16 Letter issued by the Director of the Federal
17 Bureau of Investigation or the Director’s des-
18 ignee, include a statement of facts showing that
19 there are reasonable grounds to believe that the
20 records or other things sought—

21 “(I) are relevant to an authorized in-
22 vestigation (other than a threat assess-
23 ment) to obtain foreign intelligence infor-
24 mation not concerning a United States
25 person or to protect against international

1 terrorism or clandestine intelligence activi-
2 ties; and

3 “(II) pertain to—

4 “(aa) a foreign power or an
5 agent of a foreign power;

6 “(bb) the activities of a suspected
7 agent of a foreign power who is the
8 subject of such authorized investiga-
9 tion; or

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

13 “(ii) in the case of a National Security
14 Letter issued by the Director of the United
15 States Secret Service, include a statement of
16 facts showing that there are reasonable grounds
17 to believe that the records or other things
18 sought are relevant to the conduct of the pro-
19 tective functions of the United States Secret
20 Service.

21 “(2) REPORTING.—On a semiannual basis the
22 Director of the Federal Bureau of Investigation and
23 the Director of the United States Secret Service
24 shall fully inform the Select Committee on Intel-
25 ligence, the Committee on the Judiciary, and the

1 Committee on Banking, Housing, and Urban Affairs
2 of the Senate and the Permanent Select Committee
3 on Intelligence, the Committee on the Judiciary, and
4 the Committee on Financial Services of the House of
5 Representatives, concerning all requests made under
6 subsection (a).

7 “(3) DEFINITIONS.—For purposes of this sub-
8 section, the terms ‘agent of a foreign power’, ‘inter-
9 national terrorism’, ‘foreign intelligence informa-
10 tion’, and ‘United States person’ have the same
11 meanings as in section 101 of the Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C. 1801).

13 “(c) DEFINITION OF ‘FINANCIAL INSTITUTION’.—
14 For purposes of this section (and sections 1115 and 1117,
15 insofar as the sections relate to the operation of this sec-
16 tion), the term ‘financial institution’ has the same mean-
17 ing as in subsections (a)(2) and (c)(1) of section 5312 of
18 title 31, United States Code, except that the term shall
19 include only a financial institution any part of which is
20 located inside any State or territory of the United States,
21 the District of Columbia, Puerto Rico, Guam, American
22 Samoa, the Commonwealth of the Northern Mariana Is-
23 lands, or the United States Virgin Islands.”.

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

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

4 (A) by striking the section heading and in-
5 serting the following:

6 **“§ 626. National Security Letters for certain con-**
7 **sumer report records”;**

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

10 “(a) AUTHORIZATION.—

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

19 “(A) the name of a consumer;

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

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

24 “(D) the name and address of any finan-
25 cial institution (as that term is defined in sec-

1 tion 1101 of the Right to Financial Privacy Act
2 of 1978 (12 U.S.C. 3401)) at which a consumer
3 maintains or has maintained an account, to the
4 extent that the information is in the files of the
5 consumer reporting agency.

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

9 “(b) NATIONAL SECURITY LETTER REQUIRE-
10 MENTS.—

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

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

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

24 “(i) are relevant to an authorized in-
25 vestigation (other than a threat assess-

1 ment) to obtain foreign intelligence infor-
2 mation not concerning a United States
3 person or to protect against international
4 terrorism or clandestine intelligence activi-
5 ties; and

6 “(ii) pertain to—

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

9 “(II) the activities of a suspected
10 agent of a foreign power who is the
11 subject of such authorized investiga-
12 tion; or

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

16 “(2) REPORTING.—On a semiannual basis the
17 Director of the Federal Bureau of Investigation shall
18 fully inform the Select Committee on Intelligence,
19 the Committee on the Judiciary, and the Committee
20 on Banking, Housing, and Urban Affairs of the Sen-
21 ate and the Permanent Select Committee on Intel-
22 ligence, the Committee on the Judiciary, and the
23 Committee on Financial Services of the House of
24 Representatives, concerning all requests made under
25 subsection (a).

1 “(3) DEFINITIONS.—For purposes of this sub-
 2 section, the terms ‘agent of a foreign power’, ‘inter-
 3 national terrorism’, ‘foreign intelligence informa-
 4 tion’, and ‘United States person’ have the same
 5 meanings as in section 101 of the Foreign Intel-
 6 ligence Surveillance Act of 1978 (50 U.S.C. 1801).”;

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

8 and

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

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

14 (d) TECHNICAL AND CONFORMING AMENDMENT.—

15 (1) TABLE OF SECTIONS AMENDMENT.—The
 16 table of sections for the Fair Credit Reporting Act
 17 (15 U.S.C. 1681 et seq.) is amended by striking the
 18 items relating to sections 626 and 627 and inserting
 19 the following:

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

“627. [Repealed].”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) NOTICE REQUIREMENTS.—Section
 22 1109 of the Right to Financial Privacy Act of
 23 1978 (12 U.S.C. 3409) is amended by striking
 24 subsection (c).

1 (B) TITLE 18, UNITED STATES CODE.—

2 Title 18, United States Code, is amended—

3 (i) in section 1510(e), by striking
4 “section 626(d)(1) or 627(c)(1) of the Fair
5 Credit Reporting Act (15 U.S.C.
6 1681u(d)(1) or 1681v(e)(1)), section
7 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the
8 Right to Financial Privacy Act (12 U.S.C.
9 3414(a)(3)(A) or 3414(a)(5)(D)(i)),” and
10 inserting “section 626 of the Fair Credit
11 Reporting Act (15 U.S.C. 1681u), section
12 1114 of the Right to Financial Privacy Act
13 of 1978 (12 U.S.C. 3414),”; and

14 (ii) in section 3511—

15 (I) by striking “section
16 1114(a)(5)(A) of the Right to Finan-
17 cial Privacy Act,” each place that
18 term appears and inserting “section
19 1114 of the Right to Financial Pri-
20 vacy Act of 1978 (12 U.S.C. 3414),”;
21 and

22 (II) by striking “or section
23 627(a)” each place that term appears.

1 (C) NATIONAL SECURITY ACT OF 1947.—
2 Section 507(b) of the National Security Act of
3 1947 (50 U.S.C. 3106(b)) is amended—

4 (i) in paragraph (2), by striking “sec-
5 tion 626(h)(2) of the Fair Credit Report-
6 ing Act (15 U.S.C. 1681u(h)(2)).” and in-
7 serting “section 626(b)(2) of the Fair
8 Credit Reporting Act (15 U.S.C.
9 1681u(b)(2)).”; and

10 (ii) in paragraph (3), by striking “sec-
11 tion 1114(a)(5)(C) of the Right to Finan-
12 cial Privacy Act of 1978 (12 U.S.C.
13 3414(a)(5)(C)).” and inserting “section
14 1114(b)(2) of the Right to Financial Pri-
15 vacy Act of 1978 (12 U.S.C.
16 3414(b)(2)).”.

17 (D) USA PATRIOT ACT.—

18 (i) SECTION 118.—Section 118 of the
19 USA PATRIOT Improvement and Reau-
20 thorization Act of 2005 (Public Law 109–
21 177; 18 U.S.C. 3511 note) is amended—

22 (I) in subsection (c)(1)—

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

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

4 (cc) by striking subpara-
5 graph (E); and

6 (II) in subsection (d)—

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

15 (bb) by striking paragraph
16 (5).

17 (ii) SECTION 119.—Section 119(g) of
18 the USA PATRIOT Improvement and Re-
19 authorization Act of 2005 (Public Law
20 109–177; 120 Stat. 219) is amended—

21 (I) in paragraph (2), by striking
22 “Section 1114(a)(5)(A) of the Right
23 to Financial Privacy Act (12 U.S.C.
24 3414(a)(5)(A))” and inserting “Sec-
25 tion 1114 of the Right to Financial

1 Privacy Act of 1978 (12 U.S.C.
2 3414)”; and

3 (II) by striking paragraph (5).

4 **SEC. 502. PUBLIC REPORTING ON NATIONAL SECURITY**
5 **LETTERS.**

6 Section 118(c) of the USA PATRIOT Improvement
7 and Reauthorization Act of 2005 (Public Law 109–177;
8 18 U.S.C. 3511 note), as amended by section
9 501(d)(2)(D)(i), is further amended—

10 (1) in paragraph (1)—

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

14 (B) in subparagraph (A), by striking “, ex-
15 cluding the number of requests for subscriber
16 information”;

17 (2) by redesignating paragraph (2) as para-
18 graph (3); and

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

21 “(2) CONTENT.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), each report required under
24 this subsection shall include the total number of

1 requests described in paragraph (1) requiring
2 disclosure of information concerning—

3 “(i) United States persons;

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

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

8 or

9 “(iv) persons who are not the subjects
10 of authorized national security investiga-
11 tions.

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

19 **TITLE VI—REPORTING FISA OR-**
20 **DERS AND NATIONAL SECU-**
21 **RITY LETTERS**

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

24 (a) IN GENERAL.—Each electronic service provider
25 may report information to the public in accordance with

1 this section about requests and demands for information
2 made by any Government entity under a surveillance law,
3 and is exempt in accordance with subsection (d) from li-
4 ability with respect to that report, even if such provider
5 would otherwise be prohibited by a surveillance law from
6 reporting that information.

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

10 (1) ESTIMATE OF NUMBERS OF DEMANDS AND
11 REQUESTS MADE.—The report may reveal an esti-
12 mate of the number of such demands and requests
13 made during the period to which the report pertains.

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

20 (3) ESTIMATE OF NUMBER OF USERS OR AC-
21 COUNTS.—The report may reveal an estimate of the
22 numbers of users or accounts, or both, of the service
23 provider, for which information was demanded, re-
24 quested, or provided during the period to which the
25 report pertains.

1 (c) SPECIAL RULES FOR REPORTS.—

2 (1) LEVEL OF DETAIL BY AUTHORIZING SUR-
3 VEILLANCE LAW.—Any estimate disclosed under this
4 section may be an overall estimate or broken down
5 by categories of authorizing surveillance laws or by
6 provisions of authorizing surveillance laws.

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

12 (3) REPORT MAY BE BROKEN DOWN BY PERI-
13 ODS NOT LESS THAN CALENDAR QUARTERS.—For
14 any reporting period, the provider may break down
15 the report by calendar quarters or any other time
16 periods greater than a calendar quarter.

17 (d) LIMITATION ON LIABILITY.—An electronic serv-
18 ice provider making a report that the provider reasonably
19 believes in good faith is authorized by this section is not
20 criminally or civilly liable in any court for making that
21 report.

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

25 (f) DEFINITIONS.—In this section:

1 (1) The term “electronic service provider”
2 means a provider of an electronic communications
3 service (as that term is defined in section 2510 of
4 title 18, United States Code) or a provider of a re-
5 mote computing service (as that term is defined in
6 section 2711 of title 18, United States Code).

7 (2) The term “surveillance law” means any pro-
8 vision of any of the following:

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

11 (B) Section 802(a) of the National Secu-
12 rity Act of 1947 (50 U.S.C. 3162(a)).

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

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

17 (E) Subsections (a) or (b) of section 626
18 of the Fair Credit Reporting Act (15 U.S.C.
19 1681u).

20 **SEC. 602. GOVERNMENT REPORTING OF FISA ORDERS.**

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

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

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

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

5 (B) by striking “Congress” and inserting
6 “the Select Committee on Intelligence and the
7 Committee on the Judiciary of the Senate and
8 the Permanent Select Committee on Intelligence
9 and the Committee on the Judiciary of the
10 House of Representatives”;

11 (3) in subsection (a) (as designated by para-
12 graph (2) of this subsection)—

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

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

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

21 “(3) the total number of individuals who were
22 subject to electronic surveillance conducted under an
23 order entered under this title, rounded to the nearest
24 100; and

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

5 (4) by adding at the end the following new sub-
6 section:

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

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

12 (b) PEN REGISTER AND TRAP AND TRACE DE-
13 VICES.—Section 406 of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1846) is amended—

15 (1) in subsection (b)—

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

18 (B) in paragraph (3), by striking the pe-
19 riod at the end and inserting a semicolon; and

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

22 “(4) a good faith estimate of the total number
23 of individuals whose electronic or wire communica-
24 tions information was obtained through the use of
25 pen register or trap and trace devices authorized

1 under an order entered under this title, rounded to
2 the nearest 100; and

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

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

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

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

16 (c) ACCESS TO CERTAIN BUSINESS RECORDS.—Sec-
17 tion 502 of the Foreign Intelligence Surveillance Act of
18 1978 (50 U.S.C. 1862) is amended—

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

21 “(F) Records concerning electronic com-
22 munications.

23 “(G) Records concerning wire communica-
24 tions.”; and

25 (2) in subsection (c)—

1 (A) in paragraph (1)—

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

4 (ii) in subparagraph (B), by striking
5 the period at the end and inserting a semi-
6 colon; and

7 (iii) by adding at the end the fol-
8 lowing new subparagraphs:

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

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

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

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

22 (d) ADDITIONAL PROCEDURES REGARDING CERTAIN
23 PERSONS OUTSIDE THE UNITED STATES.—Section 707
24 of the Foreign Intelligence Surveillance Act of 1978 (50

1 U.S.C. 1881f) is amended by adding at the end the fol-
2 lowing new subsection:

3 “(c) ADDITIONAL ANNUAL REPORT.—

4 “(1) REPORT REQUIRED.—In April of each
5 year, the Attorney General shall submit to the con-
6 gressional intelligence committees and the Commit-
7 tees on the Judiciary of the House of Representa-
8 tives and the Senate a report setting forth with re-
9 spect to the preceding year—

10 “(A) the total number of—

11 “(i) directives issued under section
12 702;

13 “(ii) orders granted under section
14 703; and

15 “(iii) orders granted under section
16 704;

17 “(B) good faith estimates of the total num-
18 ber of individuals, rounded to the nearest 100,
19 whose electronic or wire communications or
20 communications records were collected pursuant
21 to—

22 “(i) an order granted under section
23 703; and

24 “(ii) an order granted under section
25 704; and

1 “(C) good faith estimates of the total num-
 2 ber, rounded to the nearest 100, of United
 3 States persons whose electronic or wire commu-
 4 nications or communications records were col-
 5 lected pursuant to—

6 “(i) an order granted under section
 7 703; and

8 “(ii) an order granted under section
 9 704.

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

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

16 **TITLE VII—PRIVACY AND CIVIL**
 17 **LIBERTIES OVERSIGHT**
 18 **BOARD SUBPOENA AUTHOR-**
 19 **ITY**

20 **SEC. 701. PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
 21 **BOARD SUBPOENA AUTHORITY.**

22 Section 1061(g) of the Intelligence Reform and Ter-
 23 rorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is
 24 amended—

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

4 (2) by striking paragraph (2); and

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

○