To amend the Foreign Intelligence Surveillance Act of 1978 to protect privacy rights, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2020

Mr. WYDEN (for himself and Mr. Daines) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to protect privacy rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Safeguarding Americans’ Private Records Act of 2020”.

(b) Table of Contents.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.

TITLE I—REFORM AND OVERSIGHT OF AUTHORITY TO ACCESS CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS AND FOR ROVING SURVEILLANCE

Subtitle A—Reform and Oversight of Authority To Access Certain Business Records for Foreign Intelligence and International Terrorism Investigations

Sec. 101. Repeal of authority to access on an ongoing basis business records for foreign intelligence and international terrorism investigations.

Sec. 102. Exclusion of cell site location and global positioning system information from authority to access business records for foreign intelligence and international terrorism investigations.

Sec. 103. Exclusion of internet website browsing and internet search history information from authority to access business records for foreign intelligence and international terrorism investigations.

Sec. 104. Exclusion from authority to access business records for foreign intelligence and international terrorism investigations of information that would otherwise require a warrant.

Sec. 105. Modification of requirements relating to connection to foreign power for access business records for foreign intelligence and international terrorism investigations.

Sec. 106. Justification for nondisclosure requirement concerning access business records for foreign intelligence and international terrorism investigations.

Sec. 107. Limitations on retention of tangible things for foreign intelligence and international terrorism investigations.

Sec. 108. Judicial review of compliance with minimization procedures for access to certain business records for foreign intelligence and international terrorism investigations.

Sec. 109. Modification of requirement for Director of National Intelligence to report annually on matters relating to orders issued for production of tangible things for foreign intelligence and international terrorism investigations.

Sec. 110. Limitations on use of information obtained under authority to access business records for foreign intelligence and international terrorism investigations.

Sec. 111. Reforms relating to use of information.

Sec. 112. Inspector General of Department of Justice report on use of activities protected by First Amendment in applications for production of business records for foreign intelligence and international terrorism investigations.

Sec. 113. Annual report on waiver of prohibition on use of information obtained without an order for production of business records for foreign intelligence and international terrorism investigations.

Subtitle B—Oversight on Use of Authority for Roving Surveillance

Sec. 121. Inspector General of Department of Justice report on compliance with requirements relating to use of authority for electronic surveillance.
Sec. 122. Annual report on waiver of prohibition on use of information obtained without an order for electronic surveillance.

Subtitle C—Extension of Authority To Access Certain Business Records for Foreign Intelligence and International Terrorism Investigations and for Roving Surveillance

Sec. 131. Four-year extension of authority to access certain business records for foreign intelligence and international terrorism investigations and for roving surveillance.

TITLE II—ADDITIONAL REFORMS OF AUTHORITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

Sec. 201. Limitation on production of cell site location and global positioning system information under pen register and trap and trace authorities.

Sec. 202. Extension of authority for individual terrorists to be treated as agents of foreign powers under Foreign Intelligence Surveillance Act of 1978.


TITLE III—REFORMS REGARDING FOREIGN INTELLIGENCE SURVEILLANCE ACT COURT AND PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Sec. 301. Improved role in oversight of electronic surveillance by amici curiae appointed by courts under Foreign Intelligence Surveillance Act of 1978.

Sec. 302. Reforms to the Foreign Intelligence Surveillance Court.

Sec. 303. Study and report on diversity and representation on the FISA Court and the FISA Court of Review.

Sec. 304. Reforms of the Privacy and Civil Liberties Oversight Board.

Sec. 305. Clarification of applicability of requirement to declassify significant decisions of Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review.

TITLE IV—SUNSET OF NATIONAL SECURITY LETTER AUTHORITIES

Sec. 401. Sunset of National Security Letter authority.

TITLE V—OTHER MATTERS

Sec. 501. Limitation on collection without express statutory authority.
TITLE I—REFORM AND OVERSIGHT OF AUTHORITY TO ACCESS CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS AND FOR ROVING SURVEILLANCE

Subtitle A—Reform and Oversight of Authority To Access Certain Business Records for Foreign Intelligence and International Terrorism Investigations

SEC. 101. REPEAL OF AUTHORITY TO ACCESS ON AN ONGOING BASIS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by adding at the end the following:

“(4) The authority under paragraph (1) shall not include an application for an order requiring the production—
“(A) on an ongoing basis of any tangible things; or

“(B) of any tangible things other than those identified by the specific selection term included in the application pursuant to subsection (b)(2)(A).”.

(b) CONFORMING AMENDMENTS.—Such Act is amended—

(1) in section 501 (50 U.S.C. 1861)—

(A) in subsection (a)(1), by striking “Subject to paragraph (3)” and inserting “Subject to the provisions of this subsection”;

(B) in subsection (b)(2)—

(i) by striking subparagraph (C);

(ii) in subparagraph (B), by striking “in the case of” and all that follows through “in subparagraph (C));”;

(iii) by redesignating subparagraph (D) as subparagraph (C); and

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

(C) in subsection (c)—

(i) in paragraph (1), by striking “with subsection (b)(2)(D)” and inserting “with subsection (b)(2)(C)”;

and
(ii) in paragraph (2), by striking sub-
paragraph (F) and inserting the following:
“(F) in the case of an application for call
detail records, shall direct the Government—
“(i) to adopt minimization procedures
that require the prompt destruction of all
call detail records produced under the
order that the Government determines are
not foreign intelligence information; and
“(ii) to destroy all call detail records
produced under the order as prescribed by
such procedures.”;
(D) by amending subsection (j) to read as
follows:
“(j) COMPENSATION.—The Government shall com-
pensate a person for reasonable expenses incurred for pro-
viding technical assistance to the Government under this
section.”; and
(E) in subsection (k)(4)(B), by striking
“For purposes of an application submitted
under subsection (b)(2)(C)” and inserting “In
the case of an application for a call detail
record”;
(2) in section 502(b) (50 U.S.C. 1862(b))—
(A) by striking paragraph (4); and
(B) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively;

(3) in section 603(b)(6) (50 U.S.C. 1873(b)(6))—

(A) in the matter before subparagraph (A), by striking “under section 501(b)(2)(C)” and inserting “under section 501(b)(2)(B)”; and

(B) in subparagraph (C), by striking “any database of”; and

(4) in section 604(a)(1)(F) (50 U.S.C. 1874(a)(1)(F))—

(A) by striking clause (iii);

(B) in clause (ii), by striking “; and” and inserting a period; and

(C) in clause (i), by striking the semicolon and inserting “; and”.

(c) TECHNICAL CORRECTION.—Paragraph (3) of section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended by indenting such paragraph 2 ems to the left.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to applications made under section 501 of the Foreign Intelligence Sur-
Surveillance Act of 1978 (50 U.S.C. 1861) on or after such date.

SEC. 102. EXCLUSION OF CELL SITE LOCATION AND GLOBAL POSITIONING SYSTEM INFORMATION FROM AUTHORITY TO ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

Section 501(k) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(k)) is amended by adding at the end the following:

“(5) The term ‘tangible thing’ does not include the following:

“(A) Cell site location information.

“(B) Global positioning system information.”.

SEC. 103. EXCLUSION OF INTERNET WEBSITE BROWSING AND INTERNET SEARCH HISTORY INFORMATION FROM AUTHORITY TO ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

Paragraph (5) of section 501(k) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(k)), as
added by section 102, is amended by adding at the end the following:

“(C) Internet website browsing information.

“(D) Internet search history information.”.

SEC. 104. EXCLUSION FROM AUTHORITY TO ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS OF INFORMATION THAT WOULD OTHERWISE REQUIRE A WARRANT.

Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)), as amended by section 101, is further amended by adding at the end the following:

“(5) The authority under paragraph (1) shall not include an application for an order authorizing or requiring the production of a tangible thing if the compelled production of such thing would require a warrant for law enforcement purposes.”.
SEC. 105. MODIFICATION OF REQUIREMENTS RELATING TO CONNECTION TO FOREIGN POWER FOR ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.


(1) by inserting “and material” after “sought are relevant”; and

(2) by striking “such things being presumptively relevant to an authorized investigation if the applicant shows in the statement of facts that they” and inserting “and that such tangible things sought”.

SEC. 106. JUSTIFICATION FOR NONDISCLOSURE REQUIREMENT CONCERNING ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

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

(1) in subsection (b)—

(A) in paragraph (1)(B), by striking “and” after the semicolon;
(B) in paragraph (2)(D), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

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

“(A) the time period during which the Di-
rector of the Federal Bureau of Investigation believes the nondisclosure requirement should apply;

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

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

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

“(iii) destruction of or tampering with evidence;

“(iv) intimidation of potential wit-
nesses;
“(v) interference with diplomatic relations;
“(vi) alerting a target, an associate of a target, or the foreign power of which the target is an agent, of the interest of the Government in the target; or
“(vii) otherwise seriously endangering the national security of the United States; and
“(C) an explanation of how the nondisclosure requirement is narrowly tailored to address the specific harm identified under subparagraph (B).”;

(2) in subsection (c), by adding at the end the following:
“(5) If a judge who issues an order under this subsection upon an application made pursuant to this section that includes a request for a nondisclosure requirement described in subsection (d) finds that the requirements of subsection (b)(3) have been met, such order shall include a nondisclosure requirement that applies for a period of up to 1 year, unless the judge determines that the facts justify a longer period of nondisclosure, subject to the prin-
principles and procedures described in subsection (d).”;
and
(3) by amending subsection (d) to read as follows:
“(d) NONDISCLOSURE.—
“(1) IN GENERAL.—No person who receives an order entered under subsection (c) that contains a nondisclosure requirement shall disclose to any person the particular information specified in the nondisclosure requirement during the time period to which the requirement applies.
“(2) EXCEPTION.—
“(A) IN GENERAL.—A person who receives an order entered under subsection (c) that contains a nondisclosure requirement may disclose information otherwise subject to any applicable nondisclosure requirement to—
“(i) those persons to whom disclosure is necessary to comply with the order;
“(ii) an attorney to obtain legal advice or assistance regarding the order; or
“(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.
“(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom an order is directed under this section in the same manner as the person to whom the order is directed.

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

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

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

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

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

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

(b) Conforming Amendment.—Section 501(f)(1)(B) of such Act (50 U.S.C. 1861(f)(1)(B)) is amended by striking “an order imposed under subsection
(d)” and inserting “a nondisclosure requirement imposed in connection with a production order”.

SEC. 107. LIMITATIONS ON RETENTION OF TANGIBLE THINGS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

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

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

(2) by redesignating subparagraph (C) as subparagraph (D);

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

“(C) procedures that require that nonpublicly available information shall not be retained for more than three years unless determined to include foreign intelligence information; and”;

and

(4) in subparagraph (D), as redesignated by paragraph (2), by striking “and (B)” and inserting “(B), and (C)”.

SEC. 108. JUDICIAL REVIEW OF COMPLIANCE WITH MINI-
MIZATION PROCEDURES FOR ACCESS TO
CERTAIN BUSINESS RECORDS FOR FOREIGN
INTELLIGENCE AND INTERNATIONAL TERRORISMS INVESTIGATIONS.

Section 501(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)), as amended by section 106(a)(2), is further amended by adding at the end the following:

“(6) JUDICIAL REVIEW OF COMPLIANCE WITH MINIMIZATION PROCEDURES.—At or before the end of the period for the production of tangible things under an order entered under this section or at any time after the production of tangible things under an order entered under this section, a judge may assess compliance with the minimization procedures required by such order by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.”.
SEC. 109. MODIFICATION OF REQUIREMENT FOR DIRECTOR
OF NATIONAL INTELLIGENCE TO REPORT ANNUALLY ON MATTERS RELATING TO ORDERS
ISSUED FOR PRODUCTION OF TANGIBLE THINGS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Subsection (b)(5) of section 603 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873) is amended—

(1) in subparagraph (A), by striking “; and” and inserting a semicolon;

(2) in subparagraph (B)—

(A) by inserting “, including information received electronically and through hard-copy and portable media” after “such orders”; and

(B) by striking the semicolon and inserting “; and”; and

(3) by adding at the end the following:

“(C) the number of individuals for whom unique identifiers, unique personal identifiable information, or other identifying information has been collected pursuant to such orders, including information received electronically and through hard-copy and portable media;
“(D) the number of search terms that included information concerning a United States person that were used to query any database containing records obtained through the use of such orders;

“(E) the number of queries described in subparagraph (D) that returned information obtained from orders issued pursuant to applications made under section 501(b)(2);

“(F) the number of times the Attorney General required the emergency production of tangible things pursuant to section 501(i)(1) and the application under subparagraph (D) of such section was denied; and

“(G) the number of warrants under title I of this Act and the number of warrants under title 18, United States Code, that relied on information obtained through the use of such orders;”.

(b) ADDITIONAL INFORMATION.—Subsection (b)(2) of such section is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following:
“(D) the number of queries described in subparagraph (C) that returned information obtained from orders issued under such section; and”.

(c) REPEAL OF NONAPPLICABILITY TO FEDERAL BUREAU OF INVESTIGATION OF CERTAIN REPORTING REQUIREMENTS.—Subsection (d)(2) of such section is amended by striking “(A) FEDERAL BUREAU” and all that follows through “Paragraph (3)(B) of” and inserting “Paragraph (3)(B)”.

SEC. 110. LIMITATIONS ON USE OF INFORMATION OBTAINED UNDER AUTHORITY TO ACCESS BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

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

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

“(1) IN GENERAL.—Information acquired”; and

(2) by adding at the end the following:

“(2) LIMITATION ON USE IN CRIMINAL, CIVIL, AND ADMINISTRATIVE PROCEEDINGS AND INVESTIGATIONS.—No information about a person acquired as described in paragraph (1) who is either
a United States person or is located in the United States may be introduced as evidence against the person in any criminal, civil, or administrative proceeding or used as part of any criminal, civil, or administrative investigation, except—

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

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

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

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

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

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

“(v) incapacitation or destruction of critical infrastructure (as defined in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Ter-
rorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e))); or
“(vi) a threat to the armed forces of the United States or an ally of the United States or to other personnel of the United States Government or a government of an ally of the United States.”.

**SEC. 111. REFORMS RELATING TO USE OF INFORMATION.**

(a) **COMPLIANCE WITH MINIMIZATION PROCEDURES; PRIVILEGED COMMUNICATIONS; LAWFUL PURPOSES.**—Subsection (a) of section 106 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting “or an order issued under section 501” after “pursuant to this title” both places it appears.

(b) **STATEMENT FOR DISCLOSURE.**—Subsection (b) of such section is amended by inserting “or an order issued under section 501” after “pursuant to this title”.

(c) **NOTIFICATION BY UNITED STATES.**—Subsection (c) of such section is amended by inserting “or an order issued under section 501” after “authority of this title”.

(d) **NOTIFICATION BY STATES OR POLITICAL SUBDIVISIONS.**—Subsection (d) of such section is amended—(1) by inserting “or an order for production issued under section 501” after “authority of this title”; and
(2) by inserting “or production regarding” after “surveillance of”.

(c) MOTION TO SUPPRESS.—Subsection (e) of such section is amended—

(1) by inserting “or an order for production issued under section 501” after “from an electronic surveillance”; and

(2) by inserting “or order” after “such electronic surveillance”.

(f) IN CAMERA AND EX PARTE REVIEW BY DISTRICT COURT.—Subsection (f) of such section is amended—

(1) in the first sentence—

(A) by inserting “or an order for production issued under section 501” after “electronic surveillance” both places it appears;

(B) by inserting “or the production” after “to the surveillance”; and

(C) by inserting “or production regarding” after “surveillance of”; and

(2) in the second sentence, by inserting “or production” after “surveillance” both places it appears.

(g) SUPPRESSION OF EVIDENCE; DENIAL OF MOTION.—Subsection (g) of such section is amended—

(1) by inserting “or production” after “the surveillance” both places it appears; and
(2) by inserting “or an order for production
issued under section 501” after “electronic surveil-
ance”.

(h) FINALITY OF ORDERS.—Subsection (h) of such
section is amended—

(1) by inserting “or an order for production
issued under section 501” after “electronic surveil-
ance”; and

(2) by inserting “or production” after “a sur-
veillance”.

(i) DESTRUCTION OF UNINTENTIONALLY ACQUIRED
INFORMATION.—Subsection (i) of such section is amend-
ed—

(1) by inserting “production or” after “uninten-
tional”; and

(2) by inserting “or records” after “contents”
each place it appears.

(j) NOTIFICATION OF EMERGENCY EMPLOYMENT OF
ELECTRONIC SURVEILLANCE; CONTENTS; POSTPON-
EMENT, SUSPENSION, OR ELIMINATION.—Subsection (j) of
such section is amended—

(1) in the matter before paragraph (1)—

(A) by inserting “or emergency production
under section 501(i)” after “of section 105”; and
(B) by inserting “or the emergency production” after “to electronic surveillance”; and
(2) in paragraph (2), by inserting “or production” after “surveillance”.

(k) Clarification of Aggrieved Person.—Such section is amended by adding at the end the following:
“(l) For purposes of this section, the term ‘aggrieved person’ shall include an individual about whom information has been collected pursuant to an order entered under section 501.”.

SEC. 112. Inspector General of Department of Justice Report on Use of Activities Protected by First Amendment in Applications for Production of Business Records for Foreign Intelligence and International Terrorism Investigations.

(a) Report Required.—Not later than December 31, 2021, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on the use of activities and protected classes described in subsection (b) in—
(1) applications for orders under section 501 of
the Foreign Intelligence Surveillance Act of 1978
(50 U.S.C. 1861); and

(2) investigations for which such orders are
sought.

(b) **Activities and Protected Classes Des-
scribed.**—The activities and protected classes described
in this subsection are the following:

(1) Activities and expression protected by the
first amendment to the Constitution of the United
States.

(2) Race, ethnicity, national origin, religious af-
filiation, and such other protected classes as the In-
spector General considers appropriate.

**SEC. 113. ANNUAL REPORT ON WAIVER OF PROHIBITION**

**ON USE OF INFORMATION OBTAINED WITH-
OUT AN ORDER FOR PRODUCTION OF BUSI-
NESS RECORDS FOR FOREIGN INTELLIGENCE
AND INTERNATIONAL TERRORISM INVESTI-
GATIONS.**

Section 501(i) of the Foreign Intelligence Surveil-
ance Act of 1978 (50 U.S.C. 1861(i)) is amended by add-
ing at the end the following:

“(7) Annual report on waivers of prohi-
bition against use of information obtained
WITHOUT ORDER.—Not less frequently than once each year, the Attorney General shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on all cases in which the Attorney General approved the use of information that would otherwise be prohibited under paragraph (5).

Subtitle B—Oversight on Use of Authority for Roving Surveillance

SEC. 121. INSPECTOR GENERAL OF DEPARTMENT OF JUSTICE REPORT ON COMPLIANCE WITH REQUIREMENTS RELATING TO USE OF AUTHORITY FOR ELECTRONIC SURVEILLANCE.

(a) REPORT REQUIRED.—Not later than December 31, 2021, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on compliance with section 105(c)(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(3)).
(b) CONTENTS.—The report submitted under subsection (a) shall cover the 3-year period ending on the date of the enactment of this Act and include the following:

(1) An assessment of the processes, if any, employed by the Director of the Federal Bureau of Investigation to ascertain whether each new facility or place at which electronic surveillance was directed was used by the target of the surveillance.

(2) An assessment of whether each new facility or place at which electronic surveillance was directed was used by—

(A) the target of the surveillance; and

(B) individuals other than the target of the surveillance, including the number of such individuals.

(3) The effectiveness of minimization procedures to limit collection of facilities or places that are determined were not used by the target of the surveillance.

(4) An assessment of the process whereby orders are approved absent knowledge of the identity of the target.

(5) The number of orders in which the identity of the target is not known.
SEC. 122. ANNUAL REPORT ON WAIVER OF PROHIBITION ON USE OF INFORMATION OBTAINED WITHOUT AN ORDER FOR ELECTRONIC SURVEILLANCE.

Section 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)) is amended by adding at the end the following:

“(7) Not less frequently than once each year, the Attorney General shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives an annual report on all cases in which the Attorney General approved the use of information that would otherwise be prohibited under paragraph (5).”.
Subtitle C—Extension of Authority
To Access Certain Business
Records for Foreign Intelligence
and International Terrorism In-
vestigations and for Roving Sur-
veillance

SEC. 131. FOUR-YEAR EXTENSION OF AUTHORITY TO AC-
CESS CERTAIN BUSINESS RECORDS FOR FOR-
EIGN INTELLIGENCE AND INTERNATIONAL
TERRORISM INVESTIGATIONS AND FOR ROV-
ING SURVEILLANCE.

Section 102 of the USA PATRIOT Improvement and
Reauthorization Act of 2005 (Public Law 109–177; 50
U.S.C. 1805 note) is amended by striking “March 15,
2020” and inserting “December 15, 2023”.
TITLE II—ADDITIONAL FORMS OF AUTHORITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

SEC. 201. LIMITATION ON PRODUCTION OF CELL SITE LOCATION AND GLOBAL POSITIONING SYSTEM INFORMATION UNDER PEN REGISTER AND TRAP AND TRACE AUTHORITIES.

Section 402(d) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)) is amended by adding at the end the following:

“(4) No cell site location or global positioning system information may be produced pursuant to an order under this subsection.”.

SEC. 202. EXTENSION OF AUTHORITY FOR INDIVIDUAL TERRORISTS TO BE TREATED AS AGENTS OF FOREIGN POWERS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) Extension.—Section 6001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended by striking “March 15, 2020” and inserting “December 15, 2023”.

(b) Reporting.—
(1) Initial report.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report that identifies, for the preceding 12-month period, the number times a person who engages in international terrorism, or activities in preparation therefore, not for or on behalf of a foreign power, was treated as an agent of a foreign power under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) Annual reporting.—

(A) In general.—Section 603(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1873(b)) is amended—

(i) in paragraph (6)(C), by striking “; and” and inserting a semicolon;

(ii) in paragraph (7), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(8) the number times a person who engages in international terrorism, or activities in preparation therefore, not for or on behalf of a foreign power, was treated as an agent of a foreign power under this Act.”.
(B) Effective date.—The amendment made by subparagraph (A) shall take effect on the date that is 180 days after the date of the enactment of this Act.


(a) Definition of Derived.—

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

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

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

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

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

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

(b) Use of Information Acquired Under Title VII.—Section 706 of such Act (50 U.S.C. 1881e) is amended—

(1) in subsection (a), by striking “, except for the purposes of subsection (j) of such section”; and
(2) by amending subsection (b) to read as follows:

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

TITLE III—REFORMS REGARDING FOREIGN INTELLIGENCE SURVEILLANCE ACT COURT AND PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

SEC. 301. IMPROVED ROLE IN OVERSIGHT OF ELECTRONIC SURVEILLANCE BY AMICI CURIAE APPOINTED BY COURTS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ROLE OF AMICI CURIAE GENERALLY.—

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

(2) REFERRAL OF CASES FOR REVIEW.—Section 103(i) of such Act is amended—
(A) by redesignating paragraphs (5) through (11) as paragraphs (6) through (12), respectively; and

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

“(5) Referral for review.—

“(A) Referral to Foreign Intelligence Surveillance Court en banc.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with respect to such matter, the Court, in response to an application by the amicus curiae or any other individual designated under paragraph (1), may refer the decision to the Court en banc for review as the Court considers appropriate.

“(B) Referral to Foreign Intelligence Surveillance Court of Review.—If the court established under subsection (a) appoints an amicus curiae under paragraph (2)(A) to assist the Court in the consideration of any matter presented to the Court under this Act and the Court makes a decision with re-
spect to such matter, the Court, in response to
an application by the amicus curiae or any
other individual designated under paragraph (1)
may refer the decision to the court established
under subsection (b) for review as the Court
considers appropriate.

“(C) Referral to Supreme Court.—If
the Court of Review appoints an amicus curiae
under paragraph (2) to assist the Court of Re-
view in the review of any matter presented to
the Court of Review under this Act or a ques-
tion of law that may affect resolution of a mat-
ter in controversy and the Court of Review
makes a decision with respect to such matter or
question of law, the Court of Review, in re-
response to an application by the amicus curiae
or any other individual designated under para-
graph (1) may refer the decision to the Su-
preme Court for review as the Court of Review
considers appropriate.

“(D) Annual Report.—Not later than 60
days after the end of each calendar year, the
Court and the Court of Review shall each pub-
lish, on their respective Internet websites, a re-
port listing—
“(i) the number of applications for referral received by the Court or the Court of Review, as applicable, during the most recently concluded calendar year; and

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

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

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

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

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

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

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

(A) in subparagraph (A)—

(i) in clause (i)—

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

“(I) the court”; and

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

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

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

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

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

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

(C) in subparagraph (C)—

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

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

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

“(ii) may have access”; and

(iii) in clause (ii), as designated by clause (ii) of this subparagraph, by striking “and to the extent consistent with the national security of the United States”.

(5) Public notice and receipt of briefs from third parties.—Section 103(i) of such Act, as amended by this subsection, is further amended by adding at the end the following:
“(13) Public notice and receipt of briefs from third parties.—Whenever a court established under subsection (a) or (b) considers a novel question of law that can be considered without disclosing classified information, sources, or methods, the court shall, to the greatest extent practicable, consider such question in an open manner—

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

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

(b) Participation of Amici Curiae in Oversight of Authorizations for Targeting of Certain Persons Outside the United States Other Than United States Persons.—

(1) In general.—Section 702(j)(2) of such Act (50 U.S.C. 1881a(j)(2)) is amended—

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

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

“(A) IN GENERAL.—”; and

(D) by adding at the end the following:

“(B) PARTICIPATION BY AMICI CURIAE.—

In reviewing a certification under subparagraph (A)(i), the Court shall randomly select an amicus curiae designated under section 103(i) to assist with such review.”.

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

(c) PUBLIC NOTICE OF QUESTIONS OF LAW CERTIFIED FOR REVIEW.—Section 103(j) of such Act (50 U.S.C. 1803(j)) is amended—
(1) by striking “Following” and inserting the following:

“(1) IN GENERAL.—Following”; and

(2) by adding at the end the following:

“(2) PUBLIC NOTICE.—

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

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

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

“(B) PROTECTION OF CLASSIFIED INFORMATION, SOURCES, AND METHODS.—Subparagraph (A) shall apply to the greatest extent practicable, consistent with otherwise applicable law on the protection of classified information, sources, and methods.”.
SEC. 302. REFORMS TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.

(a) FISA COURT JUDGES.—

(1) NUMBER AND DESIGNATION OF JUDGES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

is amended—

(1) by striking “The Chief Justice” and insert-
ing “(1) Subject to paragraph (2), the Chief Jus-
tice”; and

(2) by adding at the end the following:

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

SEC. 303. STUDY AND REPORT ON DIVERSITY AND REP-
RESENTATION ON THE FISA COURT AND THE
FISA COURT OF REVIEW.

(a) Study.—The Committee on Intercircuit Assign-
ments of the Judicial Conference of the United States
shall conduct a study on how to ensure judges are ap-
pointed to the court established under subsection (a) of
section 103 of the Foreign Intelligence Surveillance Act
of 1978 (50 U.S.C. 1803) and the court established under
subsection (b) of such section in a manner that ensures
such courts are diverse and representative.
(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Committee on Intercircuit Assignments shall submit to Congress a report on the study carried out under subsection (a).

SEC. 304. REFORMS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) Inclusion of Foreign Intelligence Activities in Oversight Authority of the Privacy and Civil Liberties Oversight Board.—Section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

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

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

(b) Submission of Whistleblower Complaints to the Privacy and Civil Liberties Oversight Board.—

(1) In general.—Such section, as amended by subsection (a), is further amended—

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

“(5) Whistleblower complaints.—
"(A) Submission to Board.—An employee of, or contractor or detailee to, an element of the intelligence community may submit to the Board a complaint or information that such employee, contractor, or detailee believes relates to a privacy or civil liberties concern. The confidentiality provisions under section 2409(b)(3) of title 10, United States Code, shall apply to a submission under this subparagraph. Any disclosure under this subparagraph shall be protected against discrimination under the procedures, burdens of proof, and remedies set forth in section 2409 of such title.

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

"(C) Relationship to existing laws.—The authority under subparagraph (A) of an employee, contractor, or detailee to submit to the Board a complaint or information shall be in addition to any other authority under an-
other provision of law to submit a complaint or information. Any action taken under any other provision of law by the recipient of a complaint or information shall not preclude the Board from taking action relating to the same complaint or information.

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

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

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

and

(B) by adding at the end the following:

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

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

(c) PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD SUBPOENA POWER.—Subsection (g) of section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee) is amended—

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

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.

(d) TENURE AND COMPENSATION OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD MEMBERS AND STAFF.—
(1) IN GENERAL.—Such section, as amended by subsections (a) and (b), is further amended—

(A) in subsection (h)—

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

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

(B) in subsection (i)(1)—

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

and

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

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

(2) EFFECTIVE DATE; APPLICABILITY.—
(A) IN GENERAL.—The amendments made by paragraph (1)—

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

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

(B) EXCEPTIONS.—

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

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

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

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

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

(II) Election to serve full time.—A current member making an election under subclause (I)(aa) shall begin serving as a member of the Privacy and Civil Liberties Oversight Board on a full-time basis on the first day of the first pay period beginning not less than 60 days after the date on which the current member makes such election.

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

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

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

SEC. 305. CLARIFICATION OF APPLICABILITY OF REQUIREMENT TO DECLASSIFY SIGNIFICANT DECISIONS OF FOREIGN INTELLIGENCE SURVEILLANCE COURT AND FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

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

(b) Period for Publication.—Such section is amended by adding at the end the following:

“(d) Period for Publication.—The Director of National Intelligence shall ensure that, for each decision, order, and opinion described in subsection (a), not later than 180 days after the date of the decision, order, or opinion—

“(1) the declassification review required by such subsection is completed; and
“(2)(A) the decision, order, or opinion is made publicly available; or

“(B) a statement is made publicly available pursuant to subsection (c)(2) with respect to the decision, order, or opinion.”.

**TITLE IV—SUNSET OF NATIONAL SECURITY LETTER AUTHORITY**

**SEC. 401. SUNSET OF NATIONAL SECURITY LETTER AUTHORITY.**

(a) In General.—Effective on December 15, 2023—

(1) section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414) is repealed;

(2) section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is repealed;

(3) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is repealed;

(4) section 2709 of title 18, United States Code is repealed; and

(5) section 3511 of title 18, United States Code is amended—

(A) by striking “section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of
the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947” each place it appears and inserting “section 802(a) of the National Security Act of 1947 (50 U.S.C. 3162(a))”; and

(B) in subsection (b)—

(i) in paragraph (1)(A), by striking “section 2709 of this title, section 626 or 627 of the Fair Credit Reporting Act (15 U.S.C. 1681u and 1681v), section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414), or”; and

(ii) in paragraph (2), by striking “the Attorney General” and all that follows through “the head or deputy head of the department, agency, or instrumentality,” and inserting “the head or deputy head of the department, agency, or instrumentality making the request”.

(b) CONFORMING AMENDMENTS.—Effective on December 15, 2023—

(1) the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—
(A) in section 1101(1) (12 U.S.C. 3401(1)) by striking ‘‘, except as provided in section 1114,’’;

(B) in section 1102 (12 U.S.C. 3402), in the matter preceding paragraph (1) by striking ‘‘, 1113, or 1114’’ and inserting ‘‘or 1113’’;

and

(C) in section 1109 (12 U.S.C. 3409)—

(i) by striking subsection (c); and

(ii) by redesignating subsection (d) as subsection (c);

(2) section 1510(e) of title 18, United States Code, is amended by striking ‘‘confidentiality re-

quirements’’ and all that follows through ‘‘National Security Act of 1947 (50 U.S.C. 436(b)(1)),’’ and inserting ‘‘confidentiality requirements under section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 3162(b)(1)),’’;

(3) the table of sections for chapter 121 of title 18, United States Code, is amended by striking the item relating to section 2709;

(4) the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) in section 603 (50 U.S.C. 1873)—

(i) in subsection (b)—
(I) in paragraph (5), by adding “and” at the end;

(II) in paragraph (6), by striking “; and” and inserting a period; and

(III) by striking paragraph (7);

and

(ii) in subsection (e)—

(I) by striking paragraph (3);

and

(II) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(B) in section 801(8)(B)(2) (50 U.S.C. 1885(8)(B)(2)), by striking “or 2709(b)”;

and

(C) in section 802(a)(2) (50 U.S.C. 1885a(a)(2)), by striking “or 2709(b)”;

and

(5) section 507 of the National Security Act of 1947 (50 U.S.C. 3106) is amended—

(A) by striking subsection (b) and inserting the following:

“(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the semianual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of
that Act shall be the dates each year provided in sub-
section (e)(2).”;

(B) in subsection (e)(2), by striking “each
semiannual” and inserting “the semiannual”;
and

(C) in subsection (d)(1)(B), by striking “a
semiannual” and inserting “the semiannual”.

TITLE V—OTHER MATTERS

SEC. 501. LIMITATION ON COLLECTION WITHOUT EXPRESS
STATUTORY AUTHORITY.

(a) PROHIBITION ON INTERCEPTION AND DISCLOSURE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2511(2)(f) of title 18, United States Code, is amended by inserting—

(1) by inserting “(i)” after “acquisition by the
United States Government of”; 

(2) by inserting “if the acquisition (I) is pursu-
ant to express statutory authority or (II) does not
include information of United States persons or per-
sons inside the United States” after “international
or foreign communications”; and

(3) by inserting “(ii)” before “foreign intel-
ligence activities conducted in accordance with”.

(b) VOLUNTARY DISCLOSURE OF CUSTOMER COMMU-
NICATIONS OR RECORDS.—Section 2702(a) of title 18,
United States Code, is amended by striking “to the pub-
lic” each place it appears.

(c) Exclusive Means Related to Communications Records.—The Foreign Intelligence Surveillance
Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive
means by which electronic communications transactions
records, call detail records, or other information from com-
munications of United States persons or persons inside the
United States are collected for intelligence purposes from
a person or entity located in the United States that pro-
vides telecommunications, electronic communication or re-
mote computing services.

(d) Exclusive Means Related to Cell Site Lo-
cation, Global Positioning System Information,
Web Browsing History, and Internet Search Hist-
ory.—Title I and sections 303, 304, 703, 704, and 705
of the Foreign Intelligence Surveillance Act of 1978 (50
U.S.C. 1801 et seq., 1823, 1824, 1881b, 1881c, 1881d)
shall be the exclusive means by which cell site location,
global positioning system information, web browsing his-
tory, and internet search history of United States persons
or persons inside the United States are collected for intel-
ligence purposes from a person or entity located in the
United States.
(c) EXCLUSIVE MEANS RELATED TO FOURTH AMENDMENT-PROTECTED INFORMATION.—Title I and sections 303, 304, 703, 704, and 705 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq., 1823, 1824, 1881b, 1881c, 1881d) shall be the exclusive means by which any information, records, data, or tangible things are collected for intelligence purposes from a person or entity located in the United States if the compelled production of such information, records, data, or tangible things would require a warrant for law enforcement purposes.

(f) UNITED STATES PERSON DEFINED.—In this section, the term “United States person” has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).