

1  
2 Be it enacted by the Senate and House of Representatives of the United States of America in  
3 Congress assembled,

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Offered by M. \_\_\_\_\_  
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4 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

5 (a) Short Title.—This Act may be cited as the “Foreign Intelligence Surveillance Act of 1978  
6 Amendments Act of 2008” or the “FISA Amendments Act of 2008”.

7 (b) Table of Contents.—The table of contents for this Act is as follows:

8 Sec.1.Short title; table of contents.

9 **TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE**

10 Sec.101.Additional procedures regarding certain persons outside the United States.

11 Sec.102.Statement of exclusive means by which electronic surveillance and interception of  
12 certain communications may be conducted.

13 Sec.103.Submittal to Congress of certain court orders under the Foreign Intelligence  
14 Surveillance Act of 1978.

15 Sec.104.Applications for court orders.

16 Sec.105.Issuance of an order.

17 Sec.106.Use of information.

18 Sec.107.Amendments for physical searches.

19 Sec.108.Amendments for emergency pen registers and trap and trace devices.

20 Sec.109.Foreign Intelligence Surveillance Court,

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21 Sec.110.Review of previous actions.

22 Sec.111.Weapons of mass destruction.

23 **TITLE II—PROTECTIONS FOR ELECTRONIC**  
24 **COMMUNICATION SERVICE PROVIDERS**

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THE GOVERNMENT  
Sec.201.Statutory defenses.  
Sec.202.Technical amendments.  
TITLE III—COMMISSION ON  
WARRANTLESS

25 Sec.201.Definitions.

26 Sec.202.Limitations on civil actions for electronic communication service providers.

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27 Sec.203.Procedures for implementing statutory defenses under the Foreign Intelligence  
28 Surveillance Act of 1978.

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29 Sec.204.Preemption of State investigations.

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30 Sec.205.Technical amendments.

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31 **TITLE III—OTHER PROVISIONS**

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32 Sec.301.Severability.

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Sec.402.Effective

33 Sec.302.Effective date.

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Sec.406.Surveillance to protect the United States.¶

1 | Sec. 303. Repeals.

2 | Sec. 304. Transition procedures.

3 | **TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE**

4 | **SEC. 101. ADDITIONAL PROCEDURES REGARDING**  
5 | **CERTAIN PERSONS OUTSIDE THE UNITED STATES.**

6 | (a) In General.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is  
7 | amended—

- 8 | (1) by striking title VII; and
- 9 | (2) by adding after title VI the following new title:

10 | **“TITLE VII—ADDITIONAL PROCEDURES REGARDING**  
11 | **CERTAIN PERSONS OUTSIDE THE UNITED STATES**

12 | **“SEC. 701. DEFINITIONS.**

13 | “(a) In General.—The terms ‘agent of a foreign power’, ‘Attorney General’, ‘contents’,  
14 | ‘electronic surveillance’, ‘foreign intelligence information’, ‘foreign power’, ‘minimization  
15 | procedures’, ‘person’, ‘United States’, and ‘United States person’ shall have the meanings given  
16 | such terms in section 101, except as specifically provided in this title.

17 | “(b) Additional Definitions.—

18 | “(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ‘congressional intelligence  
19 | committees’ means—

- 20 | “(A) the Select Committee on Intelligence of the Senate; and
- 21 | “(B) the Permanent Select Committee on Intelligence of the House of  
22 | Representatives.

23 | “(2) FOREIGN INTELLIGENCE SURVEILLANCE COURT; COURT.—The terms ‘Foreign  
24 | Intelligence Surveillance Court’ and ‘Court’ mean the court established by section 103(a).

25 | “(3) FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW; COURT OF REVIEW.—The  
26 | terms ‘Foreign Intelligence Surveillance Court of Review’ and ‘Court of Review’ mean the  
27 | court established by section 103(b).

28 | “(4) ELECTRONIC COMMUNICATION SERVICE PROVIDER.—The term ‘electronic  
29 | communication service provider’ means—

- 30 | “(A) a telecommunications carrier, as that term is defined in section 3 of the  
31 | Communications Act of 1934 (47 U.S.C. 153);
- 32 | “(B) a provider of electronic communication service, as that term is defined in  
33 | section 2510 of title 18, United States Code;
- 34 | “(C) a provider of a remote computing service, as that term is defined in section  
35 | 2711 of title 18, United States Code;

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1 “(D) any other communication service provider who has access to wire or electronic  
2 communications either as such communications are transmitted or as such  
3 communications are stored; or

4 “(E) an officer, employee, or agent of an entity described in subparagraph (A), (B),  
5 (C), or (D).

6 “(5) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ‘element of the intelligence  
7 community’ means an element of the intelligence community specified in or designated  
8 under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

9 “(6) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning  
10 given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

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11 **“SEC. 702. PROCEDURES FOR TARGETING CERTAIN**  
12 **PERSONS OUTSIDE THE UNITED STATES OTHER THAN**  
13 **UNITED STATES PERSONS.**

14 “(a) Authorization.—Notwithstanding any other provision of law, pursuant to an order issued  
15 in accordance with subsection (i)(3) or a determination under subsection (g)(1)(B), the Attorney  
16 General and the Director of National Intelligence may authorize jointly, for a period of up to 1  
17 year from the effective date of the authorization, the targeting of persons reasonably believed to  
18 be located outside the United States to acquire foreign intelligence information.

19 “(b) Limitations.—An acquisition authorized under subsection (a)—

20 “(1) may not intentionally target any person known at the time of acquisition to be  
21 located in the United States;

22 “(2) may not intentionally target a person reasonably believed to be located outside the  
23 United States if the purpose of such acquisition is to target a particular, known person  
24 reasonably believed to be in the United States;

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25 “(3) may not intentionally target a United States person reasonably believed to be located  
26 outside the United States;

27 “(4) may not intentionally acquire any communication as to which the sender and all  
28 intended recipients are known at the time of the acquisition to be located in the United  
29 States; and

30 “(5) shall be conducted in a manner consistent with the fourth amendment to the  
31 Constitution of the United States.

32 “(c) Conduct of Acquisition.—

33 “(1) IN GENERAL.—An acquisition authorized under subsection (a) may be conducted  
34 only in accordance with—

35 “(A) the certification made by the Attorney General and the Director of National  
36 Intelligence required by subsection (g) or a determination under paragraph (1)(B) of  
37 such subsection; and

38 “(B) the targeting and minimization procedures required by subsections (d) and

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1 (e)  
2 “(2) CONSTRUCTION.—Nothing in the definition of electronic surveillance shall be  
3 construed to require an application under section 104 for an acquisition that is targeted in  
4 accordance with this section at a person reasonably believed to be located outside the United  
5 States.

6 “(d) Targeting Procedures.—

7 “(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director  
8 of National Intelligence, shall adopt targeting procedures that are reasonably designed to  
9 ensure that any acquisition authorized under subsection (a) is limited to targeting persons  
10 reasonably believed to be located outside the United States and does not result in the  
11 intentional acquisition of any communication as to which the sender and all intended  
12 recipients are known at the time of the acquisition to be located in the United States.

13 “(2) JUDICIAL REVIEW.—The procedures required by paragraph (1) shall be subject to  
14 judicial review pursuant to subsection (i).

15 “(e) Minimization Procedures.—

16 “(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director  
17 of National Intelligence, shall adopt minimization procedures that meet the definition of  
18 minimization procedures under section 101(h) or section 301(4) for acquisitions authorized  
19 under subsection (a).

20 “(2) JUDICIAL REVIEW.—The minimization procedures required by paragraph (1) shall be  
21 subject to judicial review pursuant to subsection (i).

22 “(f) Guidelines for Compliance with Limitations.—

23 “(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director  
24 of National Intelligence, shall adopt guidelines to ensure—

25 “(A) compliance with the limitations in subsection (b); and

26 “(B) that an application is filed under section 104 or section 303, if otherwise required  
27 by this Act.

28 “(2) TRAINING.—The Director of National Intelligence shall establish a training program  
29 for appropriate intelligence community personnel to ensure that the guidelines adopted pursuant  
30 to paragraph (1) are properly implemented.

31 “(3) SUBMISSION TO CONGRESS.—The Attorney General shall provide the guidelines adopted  
32 pursuant to paragraph (1) to—

33 (A) the congressional intelligence committees; and

34 (B) the Committees on the Judiciary of the House of Representatives and the  
35 Senate.

36 “(g) Certification.—

37 “(1) IN GENERAL.—

38 “(A) REQUIREMENT.—Subject to subparagraph (B), if the Attorney General and the  
39 Director of National Intelligence authorize an acquisition under this section, the

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“(B) in the case of a physical search, meet the definition of minimization procedures under section 301(4).”  
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“(A) the department or agency of the Federal Government conducting the acquisition has made an inquiry to another department or agency of the Federal Government to gather information on the specific United States person;”  
“(B) the department or agency of the Federal Government conducting the acquisition has provided information that identifies the specific United State ... [1]  
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1 Attorney General and the Director of National Intelligence shall provide to the Foreign  
2 Intelligence Surveillance Court, under oath, a written certification, as described in this  
3 subsection.

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4 "(B) EXCEPTION FOR IMMEDIATE ACTION.—If the Attorney General and the Director  
5 of National Intelligence determine that immediate action by the Government is  
6 required, and time does not permit the issuance of an order pursuant to subsection (i)(3)  
7 prior to the initiation of an acquisition, the Attorney General and the Director of  
8 National Intelligence may authorize the acquisition and shall submit to the Foreign  
9 Intelligence Surveillance Court a certification under this subsection as soon as possible  
10 but in no event more than 7 days after such determination is made.

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11 "(2) REQUIREMENTS.—A certification made under this subsection shall—

12 "(A) attest that—

13 "(i) there are reasonable procedures in place, which have been approved or  
14 submitted for approval to the Foreign Intelligence Surveillance Court, for  
15 determining that the acquisition authorized under subsection (a)—

16 "(I) is targeted at persons reasonably believed to be located outside the  
17 United States and such procedures; and

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18 "(II) does not result in the intentional acquisition of any communication as to  
19 which the sender and all intended recipients are known at the time of the  
20 acquisition to be located in the United States;

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21 "(ii) guidelines have been adopted by the Attorney General, in consultation  
22 with the Director of National Intelligence, in accordance with subsection (f) to  
23 ensure compliance with the limitations in subsection (b) and to ensure that  
24 applications are filed under section 104 or section 303, if otherwise required by  
25 this Act;

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26 "(iii) the minimization procedures to be used with respect to such acquisition—

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27 "(I) meet the definition of minimization procedures under section 101(h)  
28 or section 301(4), as appropriate; and

Deleted: in accordance with subsection (e);

29 "(II) have been approved by, or submitted for approval by, the Foreign  
30 Intelligence Surveillance Court;

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31 "(iv) the procedures referred to in clauses (i), (ii) and (iii) are consistent with  
32 the requirements of the fourth amendment to the Constitution of the United States;

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33 "(v) a significant purpose of the acquisition is to obtain foreign intelligence  
34 information;

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35 "(vi) the acquisition involves obtaining the foreign intelligence information  
36 from or with the assistance of an electronic communication service provider; and

37 "(vii) the acquisition complies with the limitations in subsection (b); and

38 "(B) be supported, as appropriate, by the affidavit of any appropriate official in the  
39 area of national security who is—

40 "(i) appointed by the President, by and with the consent of the Senate; or

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“(ii) the head of an element of the intelligence community; and  
“(C) include —

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“(i) an effective date for the authorization that is between 30 and 60 days from the submission of the written certification to the court; or

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“(ii) if the acquisition has begun or the effective date is less than 30 days from the submission of the written certification to the court—

“(I) the date the acquisition began or the effective date for the acquisition;

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“(II) a description of why initiation of the acquisition is required in less than 30 days from the submission of the written certification to the court; and

“(III) if the acquisition is authorized under paragraph (1)(B), a description of why immediate action by the government is required and time does not permit the issuance of an order pursuant to subsection (i)(3) prior to the initiation of the acquisition.

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“(3) LIMITATION.—A certification made under this subsection is not required to identify the specific facilities, places, premises, or property at which the acquisition authorized under subsection (a) will be directed or conducted.

“(4) SUBMISSION TO THE COURT.—The Attorney General shall transmit a copy of a certification made under this subsection, and any supporting affidavit, under seal to the Foreign Intelligence Surveillance Court before the initiation of an acquisition under this section, except in accordance with paragraph (1)(B). The Attorney General shall maintain such certification under security measures adopted by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence.

“(5) REVIEW.—The certification required by this subsection shall be subject to judicial review pursuant to subsection (i).

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“(h) Directives and Judicial Review of Directives.—

“(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communication service provider to—

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“(A) immediately provide the Government with all information, facilities, or assistance necessary to accomplish the acquisition authorized in accordance with this section in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that such electronic communication service provider is providing to the target of the acquisition; and

“(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such electronic communication service provider wishes to maintain.

“(2) COMPENSATION.—The Government shall compensate, at the prevailing rate, an electronic communication service provider for providing information, facilities, or assistance pursuant to paragraph (1).

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“(3) RELEASE FROM LIABILITY.—No cause of action shall lie in any court against any

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1 electronic communication service provider for providing any information, facilities, or  
2 assistance in accordance with a directive issued pursuant to paragraph (1).

3 “(4) CHALLENGING OF DIRECTIVES.—

4 “(A) AUTHORITY TO CHALLENGE.—An electronic communication service provider  
5 receiving a directive issued pursuant to paragraph (1) may challenge the directive by  
6 filing a petition with the Foreign Intelligence Surveillance Court, which shall have  
7 jurisdiction to review such a petition.

8 “(B) ASSIGNMENT.—The presiding judge of the Court shall assign the petition filed  
9 under subparagraph (A) to 1 of the judges serving in the pool established by section  
10 103(e)(1) not later than 24 hours after the filing of the petition.

11 “(C) STANDARDS FOR REVIEW.—A judge considering a petition to modify or set  
12 aside a directive may grant such petition only if the judge finds that the directive does  
13 not meet the requirements of this section, or is otherwise unlawful.

14 “(D) PROCEDURES FOR INITIAL REVIEW.—A judge shall conduct an initial review of a  
15 petition filed under subparagraph (A) not later than 5 days after being assigned such  
16 petition. If the judge determines that the petition does not consist of claims, defenses,  
17 or other legal contentions that are warranted by existing law or by a nonfrivolous  
18 argument for extending, modifying, or reversing existing law or for establishing new  
19 law, the judge shall immediately deny the petition and affirm the directive or any part  
20 of the directive that is the subject of the petition and order the recipient to comply with  
21 the directive or any part of it. Upon making such a determination or promptly  
22 thereafter, the judge shall provide a written statement for the record of the reasons for a  
23 determination under this subparagraph.

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24 “(E) PROCEDURES FOR PLENARY REVIEW.—If a judge determines that a petition filed  
25 under subparagraph (A) requires plenary review, the judge shall affirm, modify, or set  
26 aside the directive that is the subject of that petition not later than 30 days after being  
27 assigned the petition. If the judge does not set aside the directive, the judge shall  
28 immediately affirm the directive or order that the directive be modified, and order the  
29 recipient to comply with the directive in its entirety or as modified. The judge shall  
30 provide a written statement for the records of the reasons for a determination under this  
31 subparagraph.

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32 “(F) CONTINUED EFFECT.—Any directive not explicitly modified or set aside under  
33 this paragraph shall remain in full effect.

34 “(G) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this  
35 paragraph may be punished by the Court as contempt of court.

36 “(5) ENFORCEMENT OF DIRECTIVES.—

37 “(A) ORDER TO COMPEL.—If an electronic communication service provider fails to  
38 comply with a directive issued pursuant to paragraph (1), the Attorney General may  
39 file a petition for an order to compel the electronic communication service provider to  
40 comply with the directive with the Foreign Intelligence Surveillance Court, which shall  
41 have jurisdiction to review such a petition.

42 “(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed

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1 under subparagraph (A) to 1 of the judges serving in the pool established by section  
2 103(e)(1) not later than 24 hours after the filing of the petition.

3 “(C) PROCEDURES FOR REVIEW.—A judge considering a petition filed under  
4 subparagraph (A) shall issue an order requiring the electronic communication service  
5 provider to comply with the directive or any part of it, as issued or as modified, not  
6 later than 30 days after being assigned the petition if the judge finds that the directive  
7 meets the requirements of this section, and is otherwise lawful. The judge shall  
8 provide a written statement for the record of the reasons for a determination under this  
9 paragraph.

10 “(D) CONTEMPT OF COURT.—Failure to obey an order of the Court issued under this  
11 paragraph may be punished by the Court as contempt of court.

12 “(E) PROCESS.—Any process under this paragraph may be served in any judicial  
13 district in which the electronic communication service provider may be found.

14 “(6) APPEAL.—

15 “(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic  
16 communication service provider receiving a directive issued pursuant to paragraph (1)  
17 may file a petition with the Foreign Intelligence Surveillance Court of Review for  
18 review of a decision issued pursuant to paragraph (4) or (5). The Court of Review shall  
19 have jurisdiction to consider such a petition and shall provide a written statement for  
20 the record of the reasons for a decision under this paragraph.

21 “(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic  
22 communication service provider receiving a directive issued pursuant to paragraph (1)  
23 may file a petition for a writ of certiorari for review of the decision of the Court of  
24 Review issued under subparagraph (A). The record for such review shall be  
25 transmitted under seal to the Supreme Court of the United States, which shall have  
26 jurisdiction to review such decision.

27 “(i) Judicial Review of Certifications and Procedures.—

28 “(1) IN GENERAL.—

29 “(A) REVIEW BY THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The Foreign  
30 Intelligence Surveillance Court shall have jurisdiction to review any certification  
31 required by subsection (c) and the targeting and minimization procedures required by  
32 subsections (d) and (e), and any amendments to such certification or procedures.

33 “(B) TIME PERIOD FOR REVIEW.—The Court shall review the certification required  
34 by subsection (g) and the targeting and minimization procedures required by  
35 subsections (d) and (e) and approve or deny an order under this subsection not later  
36 than 30 days after the date on which a certification is submitted.

37 “(2) REVIEW.—The Court shall review the following:

38 “(A) CERTIFICATION.—A certification required by subsection (g) to determine  
39 whether the certification contains all the required elements.

40 “(B) TARGETING PROCEDURES.—The targeting procedures required by subsection  
41 (d) to assess whether the procedures are reasonably designed to ensure that the

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1 acquisition authorized under subsection (a) is limited to the targeting of persons  
2 reasonably believed to be located outside the United States and does not result in the  
3 intentional acquisition of any communication as to which the sender and all intended  
4 recipients are known at the time of the acquisition to be located in the United States.

5 ~~“(C) MINIMIZATION PROCEDURES.—The minimization procedures required by~~  
6 ~~subsection (e) to assess whether such procedures meet the definition of minimization~~  
7 ~~procedures under section 101(h) or section 301(4), as appropriate.~~

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8 ~~“(3) ORDERS.—~~

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9 ~~“(A) APPROVAL.—If the Court finds that a certification required by subsection (g)~~  
10 ~~contains all of the required elements and that the targeting and minimization~~  
11 ~~procedures required by subsections (d) and (e) are consistent with the requirements of~~  
12 ~~those subsections and with the fourth amendment to the Constitution of the United~~  
13 ~~States, the Court shall enter an order approving the certification and the use of the~~  
14 ~~procedures for the acquisition.~~

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15 ~~“(B) CORRECTION OF DEFICIENCIES.—If the Court finds that a certification required~~  
16 ~~by subsection (g) does not contain all of the required elements, or that the procedures~~  
17 ~~required by subsections (d) and (e) are not consistent with the requirements of those~~  
18 ~~subsections or the fourth amendment to the Constitution of the United States, the Court~~  
19 ~~shall issue an order directing the Government to, at the Government’s election and to~~  
20 ~~the extent required by the Court’s order—~~

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21 ~~“(i) correct any deficiency identified by the Court not later than 30 days after~~  
22 ~~the date the Court issues the order; or~~

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“(i) in the case of a certification submitted in accordance with subsection (g)(1)(A), the Court shall deny the order, identify any deficiency in the certification or procedures, and provide the Government with an opportunity to correct such deficiency; and  
“(ii) in the case of a certification submitted in accordance with subsection (g)(1)(B),

23 ~~“(ii) cease or not begin the acquisition authorized under subsection (a).~~

24 ~~“(C) REQUIREMENT FOR WRITTEN STATEMENT.—In support of its orders under this~~  
25 ~~subsection, the Court shall provide, simultaneously with the orders, for the record a~~  
26 ~~written statement of its reasons.~~

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27 ~~“(4) APPEAL.—~~

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28 ~~“(A) APPEAL TO THE COURT OF REVIEW.—The Government may appeal any order~~  
29 ~~under this section to the Foreign Intelligence Surveillance Court of Review, which~~  
30 ~~shall have jurisdiction to review such order. For any decision affirming, reversing, or~~  
31 ~~modifying an order of the Foreign Intelligence Surveillance Court, the Court of~~  
32 ~~Review shall provide for the record a written statement of its reasons.~~

33 ~~“(B) CONTINUATION OF ACQUISITION PENDING REHEARING OR APPEAL.—Any~~  
34 ~~acquisition affected by an order under paragraph (3)(B), may continue—~~

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35 ~~“(i) during the pendency of any rehearing of the order by the Court en banc;~~  
36 ~~and~~

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37 ~~“(ii) if the Government appeals an order under this section, subject to the entry~~  
38 ~~of an order under subparagraph (C).~~

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39 ~~“(C) IMPLEMENTATION PENDING APPEAL.—Not later than 60 days after the filing of~~  
40 ~~an appeal of an order issued under paragraph (3)(B), directing the correction of a~~  
41 ~~deficiency, the Court of Review shall determine, and enter a corresponding order~~

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1 regarding, whether all or any part of the correction order, as issued or modified, shall  
2 be implemented during the pendency of the appeal.

3 “(D) CERTIORARI TO THE SUPREME COURT.—The Government may file a petition for  
4 a writ of certiorari for review of a decision of the Court of Review issued under  
5 subparagraph (A). The record for such review shall be transmitted under seal to the  
6 Supreme Court of the United States, which shall have jurisdiction to review such  
7 decision.

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8 “(5) SCHEDULE.—

9 “(A) REPLACEMENT OF AUTHORIZATIONS IN EFFECT.—If the Attorney General and  
10 the Director of National Intelligence replace an authorization issued pursuant to section  
11 105B of the Foreign Intelligence Surveillance Act of 1978, as added by section 2 of the  
12 Protect America Act of 2007 (Public Law 110-55), the Attorney General and the  
13 Director of National Intelligence shall, to the extent practicable, submit to the Court  
14 the certification required by subsection (g) and the procedures required by subsections  
15 (d) and (e) at least 30 days before the expiration of such authorization.

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16 “(B) REAUTHORIZATION OF AUTHORIZATIONS IN EFFECT.—If the Attorney General  
17 and the Director of National Intelligence replace an authorization issued pursuant to  
18 this section, the Attorney General and the Director of National Intelligence shall, to the  
19 extent practicable, submit to the Court the certification required by section (g) and the  
20 procedures required by subsections (d) and (e) at least 30 days prior to the expiration  
21 of such authorization.

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22 “(C) CONSOLIDATED SUBMISSIONS.—The Attorney General and Director of National  
23 Intelligence shall, to the extent practicable, annually submit to the Court a  
24 consolidation of—

25 “(i) certifications required by section (g) for reauthorization of authorizations in  
26 effect;

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27 “(ii) the procedures required by subsections (d) and (e); and

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28 “(iii) the annual review required by subsection (l)(4) for the preceding year.

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29 “(D) TIMING OF REVIEWS.—The Attorney General and the Director of National  
30 Intelligence shall schedule the completion of the annual review required by subsection  
31 (l)(4) and a semiannual assessment required by subsection (l)(1) so that they may be  
32 submitted to the Court at the time of the consolidated submission under subparagraph  
33 (C).

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34 “(E) CONSTRUCTION.—The requirements of subparagraph (C) shall not be construed  
35 to preclude the Attorney General and the Director of National Intelligence from  
36 submitting certifications for additional authorizations at other times during the year as  
37 necessary.

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38 “(6) COMPLIANCE.—At or before the end of the period of time for which an authorization  
39 under subsection (a) expires, the judge may assess compliance with the minimization procedures  
40 required under subsection (e) by reviewing the circumstances under which information  
41 concerning United States persons was acquired, retained, or disseminated.

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1 “(j) Judicial Proceedings.—

2 “(1) EXPEDITED PROCEEDINGS.—Judicial proceedings under this section shall be  
3 conducted as expeditiously as possible.

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4 “(2) TIME LIMITS.—A time limit for a judicial decision in this section shall apply unless  
5 the Court, the Court of Review, or any judge of either the Court or the Court of Review, by  
6 order for reasons stated, extends that time for good cause.

7 “(k) Maintenance and Security of Records and Proceedings.—

8 “(1) STANDARDS.—A record of a proceeding under this section, including petitions filed,  
9 orders granted, and statements of reasons for decision, shall be maintained under security  
10 measures adopted by the Chief Justice of the United States, in consultation with the  
11 Attorney General and the Director of National Intelligence.

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Foreign Intelligence Surveillance Court  
shall maintain a

12 “(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In  
13 any proceedings under this section, the court shall, upon request of the Government, review  
14 ex parte and in camera any Government submission, or portions of a submission, which  
15 may include classified information.

16 “(3) RETENTION OF RECORDS.—The Director of National Intelligence and the Attorney  
17 General shall retain a directive made or an order granted under this section for a period of  
18 not less than 10 years from the date on which such directive or such order is made.

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19 “(l) Assessments and Reviews.—

20 “(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the  
21 Attorney General and Director of National Intelligence shall assess compliance with the  
22 targeting and minimization procedures required by subsections (e) and (f) and shall submit  
23 each such assessment to—

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24 “(A) the Foreign Intelligence Surveillance Court;

25 “(B) the congressional intelligence committees; and

26 “(B) the Committees on the Judiciary of the House of Representatives and the  
27 Senate.

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Surveillance Court.”

28 “(2) AGENCY ASSESSMENT.—The Inspectors General of the Department of Justice and of  
29 each element of the intelligence community authorized to acquire foreign intelligence  
30 information under subsection (a), with respect to their department, agency, or element—

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31 “(A) are authorized to review the compliance with the targeting and minimization  
32 procedures required by subsections (d) and (e);

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33 “(B) with respect to acquisitions authorized under subsection (a), shall review the  
34 number of disseminated intelligence reports containing a reference to a United States  
35 person identity and the number of United States person identities subsequently  
36 disseminated by the element concerned in response to requests for identities that were  
37 not referred to by name or title in the original reporting;

38 “(C) with respect to acquisitions authorized under subsection (a), shall review the  
39 number of targets that were later determined to be located in the United States and, to  
40 the extent possible, whether their communications were reviewed; and

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1 “(D) shall provide each such review to—

2 “(i) the Attorney General;

3 “(ii) the Director of National Intelligence;

4 “(iii) the congressional intelligence committees; and

5 “(iv) the Committees on the Judiciary of the House of Representatives and the  
6 Senate.

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Surveillance Court.”

7 “(3) ANNUAL REVIEW.—

8 “(A) REQUIREMENT TO CONDUCT.—The head of each element of the intelligence  
9 community conducting an acquisition authorized under subsection (a) shall direct the  
10 element to conduct an annual review to determine whether there is reason to believe  
11 that foreign intelligence information has been or will be obtained from the acquisition.  
12 The annual review shall provide, with respect to such acquisitions authorized under  
13 subsection (a)—

14 “(i) the number and nature of disseminated intelligence reports containing a  
15 reference to a United States person identity;

16 “(ii) the number and nature of United States person identities subsequently  
17 disseminated by that element in response to requests for identities that were not  
18 referred to by name or title in the original reporting;

19 “(iii) the number of targets that were later determined to be located in the  
20 United States and, to the extent possible, whether their communications were  
21 reviewed; and

22 “(iv) a description of any procedures developed by the head of an element of  
23 the intelligence community and approved by the Director of National Intelligence  
24 to assess, in a manner consistent with national security, operational requirements  
25 and the privacy interests of United States persons, the extent to which the  
26 acquisitions authorized under subsection (a) acquire the communications of  
27 United States persons, and the results of any such assessment.

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28 “(B) USE OF REVIEW.—The head of each element of the intelligence community that  
29 conducts an annual review under subparagraph (A) shall use each such review to  
30 evaluate the adequacy of the minimization procedures utilized by such element or the  
31 application of the minimization procedures to a particular acquisition authorized under  
32 subsection (a).

33 “(C) PROVISION OF REVIEW.—The head of each element of the intelligence  
34 community that conducts an annual review under subparagraph (A) shall provide such  
35 review to—

36 “(i) the Foreign Intelligence Surveillance Court;

37 “(ii) the Attorney General;

38 “(iii) the Director of National Intelligence;

39 “(iv) the congressional intelligence committees; and

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