

AMENDMENT NO.

Calendar No.

Purpose: To improve title I.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

**S. 2248**

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 On page 2, strike line 7 and all that follows through  
2 page 43, line 13, and insert the following:

3 **SEC. 101. TARGETING THE COMMUNICATIONS OF CERTAIN**  
4 **PERSONS OUTSIDE THE UNITED STATES.**

5 (a) IN GENERAL.—The Foreign Intelligence Surveil-  
6 lance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

7 (1) by striking title VII; and

8 (2) by adding after title VI the following new  
9 title:

1 **“TITLE VII—ADDITIONAL PROCE-**  
2 **DURES FOR TARGETING COM-**  
3 **MUNICATIONS OF CERTAIN**  
4 **PERSONS OUTSIDE THE**  
5 **UNITED STATES**

6 **“SEC. 701. DEFINITIONS.**

7 “In this title:

8 “(1) IN GENERAL.—The terms ‘agent of a for-  
9 eign power’, ‘Attorney General’, ‘contents’, ‘elec-  
10 tronic surveillance’, ‘foreign intelligence informa-  
11 tion’, ‘foreign power’, ‘minimization procedures’,  
12 ‘person’, ‘United States’, and ‘United States person’  
13 shall have the meanings given such terms in section  
14 101.

15 “(2) ADDITIONAL DEFINITIONS.—

16 “(A) CONGRESSIONAL INTELLIGENCE COM-  
17 MITTEES.—The term ‘congressional intelligence  
18 committees’ means—

19 “(i) the Select Committee on Intel-  
20 ligence of the Senate; and

21 “(ii) the Permanent Select Committee  
22 on Intelligence of the House of Represent-  
23 atives.

24 “(B) FOREIGN INTELLIGENCE SURVEIL-  
25 LANCE COURT; COURT.—The terms ‘Foreign In-

1 tellence Surveillance Court' and 'Court' mean  
2 the court established by section 103(a).

3 "(C) FOREIGN INTELLIGENCE SURVEIL-  
4 LANCE COURT OF REVIEW; COURT OF RE-  
5 VIEW.—The terms 'Foreign Intelligence Surveil-  
6 lance Court of Review' and 'Court of Review'  
7 mean the court established by section 103(b).

8 "(D) ELECTRONIC COMMUNICATION SERV-  
9 ICE PROVIDER.—The term 'electronic commu-  
10 nication service provider' means—

11 "(i) a telecommunications carrier, as  
12 that term is defined in section 3 of the  
13 Communications Act of 1934 (47 U.S.C.  
14 153);

15 "(ii) a provider of electronic commu-  
16 nications service, as that term is defined in  
17 section 2510 of title 18, United States  
18 Code;

19 "(iii) a provider of a remote com-  
20 puting service, as that term is defined in  
21 section 2711 of title 18, United States  
22 Code;

23 "(iv) any other communication service  
24 provider who has access to wire or elec-  
25 tronic communications either as such com-

1                   munications are transmitted or as such  
2                   communications are stored; or

3                   “(v) an officer, employee, or agent of  
4                   an entity described in clause (i), (ii), (iii),  
5                   or (iv).

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

12   **“SEC. 702. PROCEDURES FOR ACQUIRING THE COMMU-**  
13                   **NICATIONS OF CERTAIN PERSONS OUTSIDE**  
14                   **THE UNITED STATES.**

15                  “(a) AUTHORIZATION.—Notwithstanding any other  
16                  provision of law, including title I, the Attorney General  
17                  and the Director of National Intelligence may authorize  
18                  jointly, for periods of up to 1 year, the targeting of per-  
19                  sons reasonably believed to be located outside the United  
20                  States to acquire foreign intelligence information.

21                  “(b) LIMITATIONS.—An acquisition authorized under  
22                  subsection (a)—

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

1           “(2) may not intentionally target a person rea-  
2           sonably believed to be outside the United States if  
3           the purpose of such acquisition is to target for sur-  
4           veillance a particular, known person reasonably be-  
5           lieved to be in the United States, except in accord-  
6           ance with title I; and

7           “(3) shall be conducted in a manner consistent  
8           with the fourth amendment to the Constitution of  
9           the United States.

10          “(c) UNITED STATES PERSONS LOCATED OUTSIDE  
11 THE UNITED STATES.—

12           “(1) ACQUISITION INSIDE THE UNITED STATES  
13           OF UNITED STATES PERSONS OUTSIDE THE UNITED  
14           STATES.—An acquisition authorized by subsection  
15           (a) that occurs inside the United States may not  
16           target a United States person except in accordance  
17           with the provisions of title I.

18           “(2) ACQUISITION OUTSIDE THE UNITED  
19           STATES OF UNITED STATES PERSONS OUTSIDE THE  
20           UNITED STATES.—An acquisition by an electronic,  
21           mechanical, or other surveillance device outside the  
22           United States may not intentionally target a United  
23           States person reasonably believed to be outside the  
24           United States to acquire the contents of a wire or  
25           radio communication sent by or intended to be re-

1       ceived by that United States person under cir-  
2       cumstances in which a person has a reasonable ex-  
3       pectation of privacy and a warrant would be re-  
4       quired for law enforcement purposes if the technique  
5       were used inside the United States unless—

6               “(A) the Attorney General submits an ap-  
7               plication to the Foreign Intelligence Surveil-  
8               lance Court that includes a statement of the  
9               facts and circumstances relied upon by the ap-  
10              plicant to justify the Attorney General’s belief  
11              that the target of the acquisition is a foreign  
12              power or an agent of a foreign power;

13              “(B) the Foreign Intelligence Surveillance  
14              Court—

15              “(i) finds on the basis of the facts  
16              submitted by the applicant there is prob-  
17              able cause to believe that the target of the  
18              acquisition is a foreign power or an agent  
19              of a foreign power; and

20              “(ii) issues a determination as re-  
21              quested or as modified approving the tar-  
22              geting of that United States person;

23              “(C) the Attorney General has established  
24              minimization procedures for such acquisition

1 that meet the definition of minimization proce-  
2 dures under section 101(h); and

3 “(D) the Foreign Intelligence Surveillance  
4 Court has determined that the minimization  
5 procedures applicable to dissemination of infor-  
6 mation obtained through such acquisition meet  
7 the requirements of the definition of minimiza-  
8 tion procedures under section 101(h) relating to  
9 the dissemination of information.

10 “(3) EMERGENCY PROCEDURES.—

11 “(A) IN GENERAL.—Notwithstanding para-  
12 graph (2), and in accordance with the require-  
13 ments of this paragraph, the Attorney General  
14 may authorize the emergency employment of an  
15 acquisition under paragraph (2) if the Attorney  
16 General—

17 “(i) reasonably determines that—

18 “(I) an emergency situation ex-  
19 ists with respect to the employment of  
20 that acquisition before a determina-  
21 tion of probable cause to believe that  
22 the target of the electronic surveil-  
23 lance is a foreign power or an agent  
24 of a foreign power can with due dili-  
25 gence be obtained; and

1                   “(II) the factual basis for  
2                   issuance of a determination under  
3                   paragraph (2) to approve such an ac-  
4                   quisition exists; and

5                   “(ii) informs a judge of the Foreign  
6                   Intelligence Surveillance Court at the time  
7                   of the authorization of the emergency em-  
8                   ployment of an acquisition under para-  
9                   graph (2) that the decision has been made  
10                  to employ an emergency acquisition.

11                  “(B) APPLICATION.—As soon as prac-  
12                  ticable, but not more than 72 hours after the  
13                  authorization of the emergency employment of  
14                  an acquisition under paragraph (2), the Attor-  
15                  ney General shall submit to the judge informed  
16                  under subparagraph (A)(ii) an application in  
17                  accordance with this subsection.

18                  “(C) MINIMIZATION.—If the Attorney  
19                  General authorizes the emergency employment  
20                  of an acquisition under paragraph (2), the At-  
21                  torney General shall require that the minimiza-  
22                  tion procedures required by this section for the  
23                  issuance of a judicial order be followed.

24                  “(D) TERMINATION.—In the absence of a  
25                  judicial determination finding such probable



1           cause finding probable cause to believe that the  
2           target of the electronic surveillance is a foreign  
3           power or an agent of a foreign power, the ac-  
4           quisition shall terminate when the information  
5           sought is obtained, when the application for a  
6           determination is denied, or after the expiration  
7           of 72 hours from the time of authorization by  
8           the Attorney General, whichever is earliest.

9           “(E) USE OF INFORMATION.—

10           “(i) IN GENERAL.—Except as pro-  
11           vided in clause (ii), if an application de-  
12           scribed in subparagraph (B) is denied, or  
13           in any other case where the emergency em-  
14           ployment of an acquisition under para-  
15           graph (2) is terminated and no judicial de-  
16           termination finding probable cause to be-  
17           lieve that the target of the electronic sur-  
18           veillance is a foreign power or an agent of  
19           a foreign power is issued, no information  
20           obtained or evidence derived from such ac-  
21           quisition shall be received in evidence or  
22           otherwise disclosed in any trial, hearing, or  
23           other proceeding in or before any court,  
24           grand jury, department, office, agency,  
25           regulatory body, legislative committee, or

1 other authority of the United States, a  
2 State, or political subdivision thereof, and  
3 no information concerning any United  
4 States person acquired from such acquisi-  
5 tion shall subsequently be used or disclosed  
6 in any other manner by Federal officers or  
7 employees without the consent of such  
8 United States person.

9 “(ii) EXCEPTION.—Information de-  
10 scribed in clause (i) may be disclosed with  
11 the approval of the Attorney General if the  
12 information indicates a threat of death or  
13 serious bodily harm to any person.

14 “(F) REVIEW OF DENIALS.—The denial of  
15 an application described in subparagraph (B)  
16 may be reviewed as provided in section 103.

17 “(4) PROCEDURES.—

18 “(A) SUBMITTAL TO FOREIGN INTEL-  
19 LIGENCE SURVEILLANCE COURT.—Not later  
20 than 30 days after the date of the enactment of  
21 this title, the Attorney General shall submit to  
22 the Foreign Intelligence Surveillance Court the  
23 procedures to be utilized in determining wheth-  
24 er a target reasonably believed to be outside the  
25 United States is a United States person.

1           “(B) APPROVAL BY FOREIGN INTEL-  
2           LIGENCE SURVEILLANCE COURT.—The proce-  
3           dures submitted under subparagraph (A) shall  
4           be utilized as described in that subparagraph  
5           only upon the approval of the Foreign Intel-  
6           ligence Surveillance Court.

7           “(C) UTILIZATION IN TARGETING.—Any  
8           targeting of persons authorized by subsection  
9           (a) shall utilize the procedures submitted under  
10          subparagraph (A) as approved by the Foreign  
11          Intelligence Surveillance Court under subpara-  
12          graph (B).

13          “(5) TRANSITION PROCEDURES CONCERNING  
14          THE TARGETING OF UNITED STATES PERSONS OVER-  
15          SEAS.—Any authorization in effect on the effective  
16          date of this section pursuant to section 2.5 of Exec-  
17          utive Order 12333 to intentionally target a United  
18          States person reasonably believed to be located out-  
19          side the United States, to acquire the contents of a  
20          wire or radio communication sent by or intended to  
21          be received by that United States person, shall re-  
22          main in effect, and shall constitute a sufficient basis  
23          for conducting such acquisition of a United States  
24          person located outside the United States, until the

1 date that authorization expires or 90 days after the  
2 effective date of this section, whichever is earlier.

3 “(d) CONDUCT OF ACQUISITION.—An acquisition au-  
4 thorized under subsection (a) may be conducted only in  
5 accordance with—

6 “(1) a certification made by the Attorney Gen-  
7 eral and the Director of National Intelligence pursu-  
8 ant to subsection (g); and

9 “(2) the targeting and minimization procedures  
10 required pursuant to subsections (e) and (f).

11 “(e) TARGETING PROCEDURES.—

12 “(1) REQUIREMENT TO ADOPT.—The Attorney  
13 General, in consultation with the Director of Na-  
14 tional Intelligence, shall adopt targeting procedures  
15 that are reasonably designed to ensure that any ac-  
16 quisition authorized under subsection (a) is limited  
17 to targeting persons reasonably believed to be lo-  
18 cated outside the United States.

19 “(2) JUDICIAL REVIEW.—The procedures re-  
20 ferred to in paragraph (1) shall be subject to judicial  
21 review pursuant to subsection (i).

22 “(f) MINIMIZATION PROCEDURES.—

23 “(1) REQUIREMENT TO ADOPT.—The Attorney  
24 General, in consultation with the Director of Na-  
25 tional Intelligence, shall adopt, consistent with the

1 requirements of section 101(h), minimization proce-  
2 dures for acquisitions authorized under subsection  
3 (a).

4 “(2) JUDICIAL REVIEW.—The minimization  
5 procedures required by this subsection shall be sub-  
6 ject to judicial review pursuant to subsection (i).

7 “(g) CERTIFICATION.—

8 “(1) IN GENERAL.—

9 “(A) REQUIREMENT.—Subject to subpara-  
10 graph (B), prior to the initiation of an acquisi-  
11 tion authorized under subsection (a), the Attor-  
12 ney General and the Director of National Intel-  
13 ligence shall provide, under oath, a written cer-  
14 tification, as described in this subsection.

15 “(B) EXCEPTION.—If the Attorney Gen-  
16 eral and the Director of National Intelligence  
17 determine that immediate action by the Govern-  
18 ment is required and time does not permit the  
19 preparation of a certification under this sub-  
20 section prior to the initiation of an acquisition,  
21 the Attorney General and the Director of Na-  
22 tional Intelligence shall prepare such certifi-  
23 cation, including such determination, as soon as  
24 possible but in no event more than 168 hours  
25 after such determination is made.

1           “(2) REQUIREMENTS.—A certification made  
2 under this subsection shall—

3           “(A) attest that—

4           “(i) there are reasonable procedures  
5 in place for determining that the acqui-  
6 sition authorized under subsection (a) is tar-  
7 geted at persons reasonably believed to be  
8 located outside the United States and that  
9 such procedures have been approved by, or  
10 will promptly be submitted for approval by,  
11 the Foreign Intelligence Surveillance Court  
12 pursuant to subsection (i);

13           “(ii) the procedures referred to in  
14 clause (i) are consistent with the require-  
15 ments of the fourth amendment to the  
16 Constitution of the United States and do  
17 not permit the intentional targeting of any  
18 person who is known at the time of acqui-  
19 sition to be located in the United States;

20           “(iii) a significant purpose of the ac-  
21 quisition is to obtain foreign intelligence  
22 information;

23           “(iv) the minimization procedures to  
24 be used with respect to such acquisition—

1                   “(I) meet the definition of mini-  
2                   mization procedures under section  
3                   101(h); and

4                   “(II) have been approved by, or  
5                   will promptly be submitted for ap-  
6                   proval by, the Foreign Intelligence  
7                   Surveillance Court pursuant to sub-  
8                   section (i); and

9                   “(v) the acquisition involves obtaining  
10                  the foreign intelligence information from or  
11                  with the assistance of an electronic com-  
12                  munication service provider; and

13                  “(B) be supported, as appropriate, by the  
14                  affidavit of any appropriate official in the area  
15                  of national security who is—

16                  “(i) appointed by the President, by  
17                  and with the consent of the Senate; or

18                  “(ii) the head of any element of the  
19                  intelligence community.

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

1           “(4) SUBMISSION TO THE COURT.—The Attor-  
2           ney General shall transmit a copy of a certification  
3           made under this subsection, and any supporting affi-  
4           davit, under seal to the Foreign Intelligence Surveil-  
5           lance Court as soon as possible, but in no event  
6           more than 5 days after such certification is made.  
7           Such certification shall be maintained under security  
8           measures adopted by the Chief Justice of the United  
9           States and the Attorney General, in consultation  
10          with the Director of National Intelligence.

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

14          “(h) DIRECTIVES.—

15          “(1) AUTHORITY.—With respect to an acquisi-  
16          tion authorized under subsection (a), the Attorney  
17          General and the Director of National Intelligence  
18          may direct, in writing, an electronic communication  
19          service provider to—

20                 “(A) immediately provide the Government  
21                 with all information, facilities, or assistance  
22                 necessary to accomplish the acquisition in a  
23                 manner that will protect the secrecy of the ac-  
24                 quisition and produce a minimum of inter-  
25                 ference with the services that such electronic



1 communication service provider is providing to  
2 the target; and

3 “(B) maintain under security procedures  
4 approved by the Attorney General and the Di-  
5 rector of National Intelligence any records con-  
6 cerning the acquisition or the aid furnished that  
7 such electronic communication service provider  
8 wishes to maintain.

9 “(2) COMPENSATION.—The Government shall  
10 compensate, at the prevailing rate, an electronic  
11 communication service provider for providing infor-  
12 mation, facilities, or assistance pursuant to para-  
13 graph (1).

14 “(3) RELEASE FROM LIABILITY.—Notwith-  
15 standing any other law, no cause of action shall lie  
16 in any court against any electronic communication  
17 service provider for providing any information, facili-  
18 ties, or assistance in accordance with a directive  
19 issued pursuant to paragraph (1).

20 “(4) CHALLENGING OF DIRECTIVES.—

21 “(A) AUTHORITY TO CHALLENGE.—An  
22 electronic communication service provider re-  
23 ceiving a directive issued pursuant to paragraph  
24 (1) may challenge the directive by filing a peti-

1           tion with the Foreign Intelligence Surveillance  
2           Court.

3           “(B) ASSIGNMENT.—The presiding judge  
4           of the Court shall assign the petition filed  
5           under subparagraph (A) to 1 of the judges serv-  
6           ing in the pool established by section 103(e)(1)  
7           not later than 24 hours after the filing of the  
8           petition.

9           “(C) STANDARDS FOR REVIEW.—A judge  
10          considering a petition to modify or set aside a  
11          directive may grant such petition only if the  
12          judge finds that the directive does not meet the  
13          requirements of this section or is otherwise un-  
14          lawful. If the judge does not modify or set aside  
15          the directive, the judge shall immediately affirm  
16          such directive, and order the recipient to com-  
17          ply with the directive. The judge shall provide  
18          a written statement for the record of the rea-  
19          sons for a determination under this paragraph.

20          “(D) CONTINUED EFFECT.—Any directive  
21          not explicitly modified or set aside under this  
22          paragraph shall remain in full effect.

23          “(5) ENFORCEMENT OF DIRECTIVES.—

24          “(A) ORDER TO COMPEL.—In the case of  
25          a failure to comply with a directive issued pur-

1           suant to paragraph (1), the Attorney General  
2           may file a petition for an order to compel com-  
3           pliance with the directive with the Foreign In-  
4           telligence Surveillance Court.

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

11          “(C) STANDARDS FOR REVIEW.—A judge  
12          considering a petition shall issue an order re-  
13          quiring the electronic communication service  
14          provider to comply with the directive if the  
15          judge finds that the directive was issued in ac-  
16          cordance with paragraph (1), meets the require-  
17          ments of this section, and is otherwise lawful.  
18          The judge shall provide a written statement for  
19          the record of the reasons for a determination  
20          under this paragraph.

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

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

5           “(6) APPEAL.—

6           “(A) APPEAL TO THE COURT OF RE-  
7 VIEW.—The Government or an electronic com-  
8 munication service provider receiving a directive  
9 issued pursuant to paragraph (1) may file a pe-  
10 tition with the Foreign Intelligence Surveillance  
11 Court of Review for review of the decision  
12 issued pursuant to paragraph (4) or (5) not  
13 later than 7 days after the issuance of such de-  
14 cision. The Court of Review shall have jurisdic-  
15 tion to consider such a petition and shall pro-  
16 vide a written statement for the record of the  
17 reasons for a decision under this paragraph.

18           “(B) CERTIORARI TO THE SUPREME  
19 COURT.—The Government or an electronic com-  
20 munication service provider receiving a directive  
21 issued pursuant to paragraph (1) may file a pe-  
22 tition for a writ of certiorari for review of the  
23 decision of the Court of Review issued under  
24 subparagraph (A). The record for such review  
25 shall be transmitted under seal to the Supreme

1 Court of the United States, which shall have ju-  
2 risdiction to review such decision.

3 “(i) JUDICIAL REVIEW.—

4 “(1) IN GENERAL.—

5 “(A) REVIEW BY THE FOREIGN INTEL-  
6 LIGENCE SURVEILLANCE COURT.—The Foreign  
7 Intelligence Surveillance Court shall have juris-  
8 diction to review any certification required by  
9 subsection (d) or targeting and minimization  
10 procedures adopted pursuant to subsections (e)  
11 and (f).

12 “(B) SUBMISSION TO THE COURT.—The  
13 Attorney General shall submit to the Court any  
14 such certification or procedure, or amendment  
15 thereto, not later than 5 days after making or  
16 amending the certification or adopting or  
17 amending the procedures.

18 “(2) CERTIFICATIONS.—The Court shall review  
19 a certification provided under subsection (g) to de-  
20 termine whether the certification contains all the re-  
21 quired elements.

22 “(3) TARGETING PROCEDURES.—The Court  
23 shall review the targeting procedures required by  
24 subsection (e) to assess whether the procedures are  
25 reasonably designed to ensure that the acquisition

1 authorized under subsection (a) is limited to the tar-  
2 geting of persons reasonably believed to be located  
3 outside the United States.

4 “(4) MINIMIZATION PROCEDURES.—The Court  
5 shall review the minimization procedures required by  
6 subsection (f) to assess whether such procedures  
7 meet the definition of minimization procedures  
8 under section 101(h).

9 “(5) ORDERS.—

10 “(A) APPROVAL.—If the Court finds that  
11 a certification required by subsection (g) con-  
12 tains all of the required elements and that the  
13 targeting and minimization procedures required  
14 by subsections (e) and (f) are consistent with  
15 the requirements of those subsections and with  
16 the fourth amendment to the Constitution of  
17 the United States, the Court shall enter an  
18 order approving the continued use of the proce-  
19 dures for the acquisition authorized under sub-  
20 section (a).

21 “(B) CORRECTION OF DEFICIENCIES.—

22 “(i) IN GENERAL.—If the Court finds  
23 that a certification required by subsection  
24 (g) does not contain all of the required ele-  
25 ments, or that the procedures required by

1 subsections (e) and (f) are not consistent  
2 with the requirements of those subsections  
3 or the fourth amendment to the Constitu-  
4 tion of the United States, the Court shall  
5 issue an order directing the Government  
6 to, at the Government's election and to the  
7 extent required by the Court's order—

8 “(I) correct any deficiency identi-  
9 fied by the Court's order not later  
10 than 30 days after the date the Court  
11 issues the order; or

12 “(II) cease the acquisition au-  
13 thorized under subsection (a).

14 “(ii) LIMITATION ON USE OF INFOR-  
15 MATION.—

16 “(I) IN GENERAL.—Except as  
17 provided in subclause (II), no infor-  
18 mation obtained or evidence derived  
19 from such acquisition shall be received  
20 in evidence or otherwise disclosed in  
21 any trial, hearing, or other proceeding  
22 in or before any court, grand jury, de-  
23 partment, office, agency, regulatory  
24 body, legislative committee, or other  
25 authority of the United States; a

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

12 “(II) EXCEPTION.—If the Gov-  
13 ernment corrects any deficiency iden-  
14 tified by the Court’s order under  
15 clause (i) and such corrected certifi-  
16 cation or procedure is substantially  
17 similar to the certification or proce-  
18 dure rejected by the Court, the Court  
19 may permit the use or disclosure of  
20 information acquired before the date  
21 of the correction pursuant to such  
22 minimization procedures as the Court  
23 shall establish for purposes of this  
24 clause.



1           “(C) REQUIREMENT FOR WRITTEN STATE-  
2           MENT.—In support of its orders under this sub-  
3           section, the Court shall provide, simultaneously  
4           with the orders, for the record a written state-  
5           ment of its reasons.

6           “(6) APPEAL.—

7           “(A) APPEAL TO THE COURT OF RE-  
8           VIEW.—The Government may appeal any order  
9           under this section to the Foreign Intelligence  
10          Surveillance Court of Review, which shall have  
11          jurisdiction to review such order. For any deci-  
12          sion affirming, reversing, or modifying an order  
13          of the Foreign Intelligence Surveillance Court,  
14          the Court of Review shall provide for the record  
15          a written statement of its reasons.

16          “(B) STAY PENDING APPEAL.—The Gov-  
17          ernment may move for a stay of any order of  
18          the Foreign Intelligence Surveillance Court  
19          under paragraph (5)(B)(i) pending review by  
20          the Court en banc or pending appeal to the  
21          Foreign Intelligence Surveillance Court of Re-  
22          view.

23          “(C) CERTIORARI TO THE SUPREME  
24          COURT.—The Government may file a petition  
25          for a writ of certiorari for review of a decision

1 of the Court of Review issued under subpara-  
2 graph (A). The record for such review shall be  
3 transmitted under seal to the Supreme Court of  
4 the United States, which shall have jurisdiction  
5 to review such decision.

6 “(7) COMPLIANCE REVIEW.—The Court may  
7 review and assess compliance with the minimization  
8 procedures submitted to the Court pursuant to sub-  
9 sections (c) and (f) by reviewing the semiannual as-  
10 sessments submitted by the Attorney General and  
11 the Director of National Intelligence pursuant to  
12 subsection (l)(1) with respect to compliance with  
13 minimization procedures. In conducting a review  
14 under this paragraph, the Court may, to the extent  
15 necessary, require the Government to provide addi-  
16 tional information regarding the acquisition, reten-  
17 tion, or dissemination of information concerning  
18 United States persons during the course of an acqui-  
19 sition authorized under subsection (a).

20 “(j) JUDICIAL PROCEEDINGS.—Judicial proceedings  
21 under this section shall be conducted as expeditiously as  
22 possible.

23 “(k) MAINTENANCE OF RECORDS.—

24 “(1) STANDARDS.—A record of a proceeding  
25 under this section, including petitions filed, orders