

113TH CONGRESS
1ST SESSION

S. _____

To strengthen privacy protections, accountability, and oversight related to domestic surveillance conducted pursuant to the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978.

IN THE SENATE OF THE UNITED STATES

Mr. LEAHY (for himself, Mr. LEE, Mr. UDALL of Colorado, Mr. WYDEN, Mr. BLUMENTHAL, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To strengthen privacy protections, accountability, and oversight related to domestic surveillance conducted pursuant to the USA PATRIOT Act and the Foreign Intelligence Surveillance Act of 1978.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FISA Accountability
5 and Privacy Protection Act of 2013”.

6 **SEC. 2. SUNSETS.**

7 (a) MODIFICATION OF FISA AMENDMENTS ACT OF
8 2008 SUNSET.—

1 (1) MODIFICATION.—Section 403(b)(1) of the
2 FISA Amendments Act of 2008 (Public Law 110–
3 261; 50 U.S.C. 1881 note) is amended by striking
4 “December 31, 2017” and inserting “June 1,
5 2015”.

6 (2) TECHNICAL AND CONFORMING AMEND-
7 MENTS.—Section 403(b)(2) of such Act (Public Law
8 110–261; 122 Stat. 2474) is amended by striking
9 “December 31, 2017” and inserting “June 1,
10 2015”.

11 (3) ORDERS IN EFFECT.—Section 404(b)(1) of
12 such Act (Public Law 110–261; 50 U.S.C. 1801
13 note) is amended in the paragraph heading by strik-
14 ing “DECEMBER 31, 2017” and inserting “JUNE 1,
15 2015”.

16 (b) NATIONAL SECURITY LETTERS.—

17 (1) REPEAL.—Effective on June 1, 2015—

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

21 (B) section 1114(a)(5) of the Right to Fi-
22 nancial Privacy Act of 1978 (12 U.S.C.
23 3414(a)(5)) is amended to read as such provi-
24 sion read on October 25, 2001;

1 (C) subsections (a) and (b) of section 626
2 of the Fair Credit Reporting Act (15 U.S.C.
3 1681u) are amended to read as subsections (a)
4 and (b), respectively, of the second of the 2 sec-
5 tions designated as section 624 of such Act (15
6 U.S.C. 1681u) (relating to disclosure to the
7 Federal Bureau of Investigation for counter-
8 intelligence purposes), as added by section 601
9 of the Intelligence Authorization Act for Fiscal
10 Year 1996 (Public Law 104–93; 109 Stat.
11 974), read on October 25, 2001;

12 (D) section 627 of the Fair Credit Report-
13 ing Act (15 U.S.C. 1681v) is repealed; and

14 (E) section 802 of the National Security
15 Act of 1947 (50 U.S.C. 3162) is amended to
16 read as such provision read on October 25,
17 2001.

18 (2) TRANSITION PROVISION.—Notwithstanding
19 paragraph (1), the provisions of law referred to in
20 paragraph (1), as in effect on May 31, 2015, shall
21 continue to apply on and after June 1, 2015, with
22 respect to any particular foreign intelligence inves-
23 tigation or with respect to any particular offense or
24 potential offense that began or occurred before June
25 1, 2015.

1 (3) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—Effective June 1, 2015—

3 (A) section 3511 of title 18, United States
4 Code, is amended—

5 (i) in subsections (a), (c), and (d), by
6 striking “or 627(a)” each place it appears;
7 and

8 (ii) in subsection (b)(1)(A), as amend-
9 ed by section 6(b) of this Act, by striking
10 “section 626 or 627 of the Fair Credit Re-
11 porting Act (15 U.S.C. 1681u and 1681v)”
12 and inserting “section 626 of the Fair
13 Credit Reporting Act (15 U.S.C. 1681u)”;

14 (B) section 118(e) of the USA PATRIOT
15 Improvement and Reauthorization Act of 2005
16 (18 U.S.C. 3511 note) is amended—

17 (i) in subparagraph (C), by adding
18 “and” at the end;

19 (ii) in subparagraph (D), by striking
20 “; and” and inserting a period; and

21 (iii) by striking subparagraph (E);
22 and

23 (C) the table of sections for the Fair Cred-
24 it Reporting Act (15 U.S.C. 1681 et seq.) is

1 amended by striking the item relating to section
2 627.

3 **SEC. 3. FACTUAL BASIS FOR AND ISSUANCE OF ORDERS**
4 **FOR ACCESS TO TANGIBLE THINGS.**

5 (a) IN GENERAL.—Section 501 of the Foreign Intel-
6 ligence Surveillance Act of 1978 (50 U.S.C. 1861) is
7 amended—

8 (1) in the section heading, by striking “**CER-**
9 **TAIN BUSINESS RECORDS**” and inserting “**TAN-**
10 **GIBLE THINGS**”;

11 (2) in subsection (b)(2), by striking subpara-
12 graphs (A) and (B) and inserting the following:

13 “(A) a statement of facts showing that
14 there are reasonable grounds to believe that the
15 records or other things sought—

16 “(i) are relevant to an authorized in-
17 vestigation (other than a threat assess-
18 ment) conducted in accordance with sub-
19 section (a)(2) to obtain foreign intelligence
20 information not concerning a United
21 States person or to protect against inter-
22 national terrorism or clandestine intel-
23 ligence activities; and

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

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

5 “(III) pertain to an individual in con-
6 tact with, or known to, a suspected agent
7 of a foreign power; and

8 “(B) a statement of proposed minimization
9 procedures.”; and

10 (3) in subsection (c)—

11 (A) in paragraph (1)—

12 (i) by inserting “and that the pro-
13 posed minimization procedures meet the
14 definition of minimization procedures
15 under subsection (g)” after “subsections
16 (a) and (b)”;

17 (ii) by striking the second sentence;
18 and

19 (B) in paragraph (2)—

20 (i) in subparagraph (D), by striking
21 “and” at the end;

22 (ii) in subparagraph (E), by striking
23 the period at the end and inserting “;
24 and”;

1 (iii) by adding at the end the fol-
2 lowing:

3 “(F) shall direct that the minimization
4 procedures be followed.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

6 (1) DEFINITIONS.—Title V of the Foreign In-
7 telligence Surveillance Act of 1978 (50 U.S.C. 1861
8 et seq.) is amended by adding at the end the fol-
9 lowing:

10 **“SEC. 503. DEFINITIONS.**

11 “In this title, the terms ‘ Attorney General’, ‘foreign
12 intelligence information’, ‘international terrorism’, ‘per-
13 son’, ‘United States’, and ‘United States person’ have the
14 meanings given those terms in section 101.”.

15 (2) TITLE HEADING.—Title V of the Foreign
16 Intelligence Surveillance Act of 1978 (50 U.S.C.
17 1861 et seq.) is amended in the title heading by
18 striking “CERTAIN BUSINESS RECORDS” and
19 inserting “TANGIBLE THINGS”.

20 (3) TABLE OF CONTENTS.—The table of con-
21 tents in the first section of the Foreign Intelligence
22 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
23 is amended—

24 (A) by striking the items relating to title
25 V and section 501 and inserting the following:

“TITLE V—ACCESS TO TANGIBLE THINGS FOR FOREIGN
INTELLIGENCE PURPOSES

“Sec. 501. Access to tangible things for foreign intelligence purposes and international terrorism investigations.”; and

1 (B) by inserting after the item relating to
2 section 502 the following:

“Sec. 503. Definitions.”.

3 **SEC. 4. ORDERS FOR PEN REGISTERS AND TRAP AND**
4 **TRACE DEVICES FOR FOREIGN INTEL-**
5 **LIGENCE PURPOSES.**

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

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

11 (2) in paragraph (2)—

12 (A) by striking “a certification by the ap-
13 plicant” and inserting “a statement of the facts
14 and circumstances relied upon by the applicant
15 to justify the belief of the applicant”; and

16 (B) by striking the period at the end and
17 inserting “; and”; and

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

19 “(3) a statement of whether minimization pro-
20 cedures are being proposed and, if so, a statement
21 of the proposed minimization procedures.”.

22 (b) MINIMIZATION.—

1 (1) DEFINITION.—Section 401 of the Foreign
2 Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1841) is amended by adding at the end the fol-
4 lowing:

5 “(4) The term ‘minimization procedures’
6 means—

7 “(A) specific procedures, that are reason-
8 ably designed in light of the purpose and tech-
9 nique of an order for the installation and use
10 of a pen register or trap and trace device, to
11 minimize the retention, and prohibit the dis-
12 semination, of nonpublicly available information
13 known to concern unconsenting United States
14 persons consistent with the need of the United
15 States to obtain, produce, and disseminate for-
16 eign intelligence information;

17 “(B) procedures that require that nonpub-
18 licly available information, which is not foreign
19 intelligence information, shall not be dissemi-
20 nated in a manner that identifies any United
21 States person, without the consent of such per-
22 son, unless the identity of such person is nec-
23 essary to understand foreign intelligence infor-
24 mation or assess its importance; and

1 “(C) notwithstanding subparagraphs (A)
2 and (B), procedures that allow for the retention
3 and dissemination of information that is evi-
4 dence of a crime which has been, is being, or
5 is about to be committed and that is to be re-
6 tained or disseminated for law enforcement pur-
7 poses.”.

8 (2) PEN REGISTERS AND TRAP AND TRACE DE-
9 VICES.—Section 402 of the Foreign Intelligence Sur-
10 veillance Act of 1978 (50 U.S.C. 1842) is amend-
11 ed—

12 (A) in subsection (d)(1), by striking “the
13 judge finds” and all that follows and inserting
14 the following: “the judge finds—

15 “(A) that the application satisfies the require-
16 ments of this section; and

17 “(B) that, if there are exceptional cir-
18 cumstances justifying the use of minimization proce-
19 dures in a particular case, the proposed minimiza-
20 tion procedures meet the definition of minimization
21 procedures under this title.”; and

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

23 “(h) At or before the end of the period of time for
24 which the installation and use of a pen register or trap
25 and trace device is approved under an order or an exten-

1 sion under this section, the judge may assess compliance
2 with any applicable minimization procedures by reviewing
3 the circumstances under which information concerning
4 United States persons was retained or disseminated.”.

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

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

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

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

17 (4) USE OF INFORMATION.—Section 405(a)(1)
18 of the Foreign Intelligence Surveillance Act of 1978
19 (50 U.S.C. 1845(a)(1)) is amended by striking “pro-
20 visions of this section” and inserting “minimization
21 procedures required under this title”.

22 (c) TRANSITION PROCEDURES.—

23 (1) ORDERS IN EFFECT.—Notwithstanding the
24 amendments made by this Act, an order entered
25 under section 402(d)(1) of the Foreign Intelligence

1 Surveillance Act of 1978 (50 U.S.C. 1842(d)(1))
2 that is in effect on the effective date of the amend-
3 ments made by this section shall remain in effect
4 until the expiration of the order.

5 (2) EXTENSIONS.—A request for an extension
6 of an order referred to in paragraph (1) shall be
7 subject to the requirements of the Foreign Intel-
8 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
9 seq.), as amended by this Act.

10 **SEC. 5. LIMITATIONS ON DISCLOSURE OF NATIONAL SECUR-**
11 **RITY LETTERS.**

12 (a) IN GENERAL.—Section 2709 of title 18, United
13 States Code, is amended by striking subsection (c) and
14 inserting the following:

15 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

16 “(1) PROHIBITION.—

17 “(A) IN GENERAL.—If a certification is
18 issued under subparagraph (B) and notice of
19 the right to judicial review under paragraph (3)
20 is provided, no wire or electronic communica-
21 tion service provider, or officer, employee, or
22 agent thereof, that receives a request under
23 subsection (a), shall disclose to any person that
24 the Director of the Federal Bureau of Inves-

1 tigation has sought or obtained access to infor-
2 mation or records under this section.

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

12 “(i) a danger to the national security
13 of the United States;

14 “(ii) interference with a criminal,
15 counterterrorism, or counterintelligence in-
16 vestigation;

17 “(iii) interference with diplomatic re-
18 lations; or

19 “(iv) danger to the life or physical
20 safety of any person.

21 “(2) EXCEPTION.—

22 “(A) IN GENERAL.—A wire or electronic
23 communication service provider, or officer, em-
24 ployee, or agent thereof, that receives a request
25 under subsection (a) may disclose information

1 otherwise subject to any applicable nondisclo-
2 sure requirement to—

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

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

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

12 “(B) PERSONS NECESSARY FOR COMPLI-
13 ANCE.—Upon a request by the Director of the
14 Federal Bureau of Investigation or the designee
15 of the Director, those persons to whom disclo-
16 sure will be made under subparagraph (A)(i) or
17 to whom such disclosure was made before the
18 request shall be identified to the Director or the
19 designee.

20 “(C) NONDISCLOSURE REQUIREMENT.—A
21 person to whom disclosure is made under sub-
22 paragraph (A) shall be subject to the nondisclo-
23 sure requirements applicable to a person to
24 whom a request is issued under subsection (a)

1 in the same manner as the person to whom the
2 request is issued.

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

8 “(3) RIGHT TO JUDICIAL REVIEW.—

9 “(A) IN GENERAL.—A wire or electronic
10 communications service provider that receives a
11 request under subsection (a) shall have the
12 right to judicial review of any applicable non-
13 disclosure requirement.

14 “(B) NOTIFICATION.—A request under
15 subsection (a) shall state that if the recipient
16 wishes to have a court review a nondisclosure
17 requirement, the recipient shall notify the Gov-
18 ernment.

19 “(C) INITIATION OF PROCEEDINGS.—If a
20 recipient of a request under subsection (a)
21 makes a notification under subparagraph (B),
22 the Government shall initiate judicial review
23 under the procedures established in section
24 3511 of this title, unless an appropriate official

1 of the Federal Bureau of the Investigation
2 makes a notification under paragraph (4).

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

12 (b) IDENTITY OF FINANCIAL INSTITUTIONS AND
13 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
14 porting Act (15 U.S.C. 1681u) is amended by striking
15 subsection (d) and inserting the following:

16 “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

17 “(1) PROHIBITION.—

18 “(A) IN GENERAL.—If a certification is
19 issued under subparagraph (B) and notice of
20 the right to judicial review under paragraph (3)
21 is provided, no consumer reporting agency, or
22 officer, employee, or agent thereof, that receives
23 a request or order under subsection (a), (b), or
24 (c), shall disclose or specify in any consumer re-
25 port, that the Federal Bureau of Investigation

1 has sought or obtained access to information or
2 records under subsection (a), (b), or (c).

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

12 “(i) a danger to the national security
13 of the United States;

14 “(ii) interference with a criminal,
15 counterterrorism, or counterintelligence in-
16 vestigation;

17 “(iii) interference with diplomatic re-
18 lations; or

19 “(iv) danger to the life or physical
20 safety of any person.

21 “(2) EXCEPTION.—

22 “(A) IN GENERAL.—A consumer reporting
23 agency, or officer, employee, or agent thereof,
24 that receives a request or order under sub-
25 section (a), (b), or (c) may disclose information

1 otherwise subject to any applicable nondisclo-
2 sure requirement to—

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

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

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

12 “(B) PERSONS NECESSARY FOR COMPLI-
13 ANCE.—Upon a request by the Director of the
14 Federal Bureau of Investigation or the designee
15 of the Director, those persons to whom disclo-
16 sure will be made under subparagraph (A)(i) or
17 to whom such disclosure was made before the
18 request shall be identified to the Director or the
19 designee.

20 “(C) NONDISCLOSURE REQUIREMENT.—A
21 person to whom disclosure is made under sub-
22 paragraph (A) shall be subject to the nondisclo-
23 sure requirements applicable to a person to
24 whom a request or order is issued under sub-
25 section (a), (b), or (c) in the same manner as

1 the person to whom the request or order is
2 issued.

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

8 “(3) RIGHT TO JUDICIAL REVIEW.—

9 “(A) IN GENERAL.—A consumer reporting
10 agency that receives a request or order under
11 subsection (a), (b), or (c) shall have the right
12 to judicial review of any applicable nondisclo-
13 sure requirement.

14 “(B) NOTIFICATION.—A request or order
15 under subsection (a), (b), or (c) shall state that
16 if the recipient wishes to have a court review a
17 nondisclosure requirement, the recipient shall
18 notify the Government.

19 “(C) INITIATION OF PROCEEDINGS.—If a
20 recipient of a request or order under subsection
21 (a), (b), or (c) makes a notification under sub-
22 paragraph (B), the Government shall initiate
23 judicial review under the procedures established
24 in section 3511 of title 18, United States Code,
25 unless an appropriate official of the Federal

1 Bureau of Investigation makes a notification
2 under paragraph (4).

3 “(4) TERMINATION.—In the case of any request
4 or order for which a consumer reporting agency has
5 submitted a notification under paragraph (3)(B), if
6 the facts supporting a nondisclosure requirement
7 cease to exist, an appropriate official of the Federal
8 Bureau of Investigation shall promptly notify the
9 consumer reporting agency, or officer, employee, or
10 agent thereof, subject to the nondisclosure require-
11 ment that the nondisclosure requirement is no longer
12 in effect.”.

13 (c) DISCLOSURES TO GOVERNMENTAL AGENCIES
14 FOR COUNTERTERRORISM PURPOSES.—Section 627 of the
15 Fair Credit Reporting Act (15 U.S.C. 1681v) is amended
16 by striking subsection (c) and inserting the following:

17 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

18 “(1) PROHIBITION.—

19 “(A) IN GENERAL.—If a certification is
20 issued under subparagraph (B) and notice of
21 the right to judicial review under paragraph (3)
22 is provided, no consumer reporting agency, or
23 officer, employee, or agent thereof, that receives
24 a request under subsection (a), shall disclose to
25 any person or specify in any consumer report,

1 that a government agency has sought or ob-
2 tained access to information under subsection
3 (a).

4 “(B) CERTIFICATION.—The requirements
5 of subparagraph (A) shall apply if the head of
6 a government agency authorized to conduct in-
7 vestigations of, or intelligence or counterintel-
8 ligence activities or analysis related to, inter-
9 national terrorism, or a designee, certifies that,
10 absent a prohibition of disclosure under this
11 subsection, there may result—

12 “(i) a danger to the national security
13 of the United States;

14 “(ii) interference with a criminal,
15 counterterrorism, or counterintelligence in-
16 vestigation;

17 “(iii) interference with diplomatic re-
18 lations; or

19 “(iv) danger to the life or physical
20 safety of any person.

21 “(2) EXCEPTION.—

22 “(A) IN GENERAL.—A consumer reporting
23 agency, or officer, employee, or agent thereof,
24 that receives a request under subsection (a)

1 may disclose information otherwise subject to
2 any applicable nondisclosure requirement to—

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

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

9 “(iii) other persons as permitted by
10 the head of the government agency author-
11 ized to conduct investigations of, or intel-
12 ligence or counterintelligence activities or
13 analysis related to, international terrorism,
14 or a designee.

15 “(B) PERSONS NECESSARY FOR COMPLI-
16 ANCE.—Upon a request by the head of a gov-
17 ernment agency authorized to conduct inves-
18 tigations of, or intelligence or counterintel-
19 ligence activities or analysis related to, inter-
20 national terrorism, or a designee, those persons
21 to whom disclosure will be made under subpara-
22 graph (A)(i) or to whom such disclosure was
23 made before the request shall be identified to
24 the head of the government agency or the des-
25 ignee.

1 “(C) NONDISCLOSURE REQUIREMENT.—A
2 person to whom disclosure is made under sub-
3 paragraph (A) shall be subject to the nondisclo-
4 sure requirements applicable to a person to
5 whom a request is issued under subsection (a)
6 in the same manner as the person to whom the
7 request is issued.

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

13 “(3) RIGHT TO JUDICIAL REVIEW.—

14 “(A) IN GENERAL.—A consumer reporting
15 agency that receives a request under subsection
16 (a) shall have the right to judicial review of any
17 applicable nondisclosure requirement.

18 “(B) NOTIFICATION.—A request under
19 subsection (a) shall state that if the recipient
20 wishes to have a court review a nondisclosure
21 requirement, the recipient shall notify the gov-
22 ernment.

23 “(C) INITIATION OF PROCEEDINGS.—If a
24 recipient of a request under subsection (a)
25 makes a notification under subparagraph (B),

1 the government shall initiate judicial review
2 under the procedures established in section
3 3511 of title 18, United States Code, unless an
4 appropriate official of the government agency
5 authorized to conduct investigations of, or intel-
6 ligence or counterintelligence activities or anal-
7 ysis related to, international terrorism makes a
8 notification under paragraph (4).

9 “(4) TERMINATION.—In the case of any request
10 for which a consumer reporting agency has sub-
11 mitted a notification under paragraph (3)(B), if the
12 facts supporting a nondisclosure requirement cease
13 to exist, an appropriate official of the government
14 agency authorized to conduct investigations of, or in-
15 telligence or counterintelligence activities or analysis
16 related to, international terrorism shall promptly no-
17 tify the consumer reporting agency, or officer, em-
18 ployee, or agent thereof, subject to the nondisclosure
19 requirement that the nondisclosure requirement is
20 no longer in effect.”.

21 (d) FINANCIAL RECORDS.—Section 1114(a)(5) of the
22 Right to Financial Privacy Act of 1978 (12 U.S.C.
23 3414(a)(5)) is amended by striking subparagraph (D) and
24 inserting the following:

25 “(D) PROHIBITION OF CERTAIN DISCLOSURE.—

1 “(i) PROHIBITION.—

2 “(I) IN GENERAL.—If a certification is
3 issued under subclause (II) and notice of the
4 right to judicial review under clause (iii) is pro-
5 vided, no financial institution, or officer, em-
6 ployee, or agent thereof, that receives a request
7 under subparagraph (A), shall disclose to any
8 person that the Federal Bureau of Investigation
9 has sought or obtained access to information or
10 records under subparagraph (A).

11 “(II) CERTIFICATION.—The requirements
12 of subclause (I) shall apply if the Director of
13 the Federal Bureau of Investigation, or a des-
14 ignee of the Director whose rank shall be no
15 lower than Deputy Assistant Director at Bu-
16 reau headquarters or a Special Agent in Charge
17 of a Bureau field office, certifies that, absent a
18 prohibition of disclosure under this subpara-
19 graph, there may result—

20 “(aa) a danger to the national secu-
21 rity of the United States;

22 “(bb) interference with a criminal,
23 counterterrorism, or counterintelligence in-
24 vestigation;

1 “(cc) interference with diplomatic re-
2 lations; or

3 “(dd) danger to the life or physical
4 safety of any person.

5 “(ii) EXCEPTION.—

6 “(I) IN GENERAL.—A financial institution,
7 or officer, employee, or agent thereof, that re-
8 ceives a request under subparagraph (A) may
9 disclose information otherwise subject to any
10 applicable nondisclosure requirement to—

11 “(aa) those persons to whom disclo-
12 sure is necessary in order to comply with
13 the request;

14 “(bb) an attorney in order to obtain
15 legal advice or assistance regarding the re-
16 quest; or

17 “(cc) other persons as permitted by
18 the Director of the Federal Bureau of In-
19 vestigation or the designee of the Director.

20 “(II) PERSONS NECESSARY FOR COMPLI-
21 ANCE.—Upon a request by the Director of the
22 Federal Bureau of Investigation or the designee
23 of the Director, those persons to whom disclo-
24 sure will be made under subclause (I)(aa) or to
25 whom such disclosure was made before the re-

1 quest shall be identified to the Director or the
2 designee.

3 “(III) NONDISCLOSURE REQUIREMENT.—
4 A person to whom disclosure is made under
5 subclause (I) shall be subject to the nondisclo-
6 sure requirements applicable to a person to
7 whom a request is issued under subparagraph
8 (A) in the same manner as the person to whom
9 the request is issued.

10 “(IV) NOTICE.—Any recipient that dis-
11 closes to a person described in subclause (I) in-
12 formation otherwise subject to a nondisclosure
13 requirement shall inform the person of the ap-
14 plicable nondisclosure requirement.

15 “(iii) RIGHT TO JUDICIAL REVIEW.—

16 “(I) IN GENERAL.—A financial institution
17 that receives a request under subparagraph (A)
18 shall have the right to judicial review of any ap-
19 plicable nondisclosure requirement.

20 “(II) NOTIFICATION.—A request under
21 subparagraph (A) shall state that if the recipi-
22 ent wishes to have a court review a nondisclo-
23 sure requirement, the recipient shall notify the
24 Government.

1 “(III) INITIATION OF PROCEEDINGS.—If a
2 recipient of a request under subparagraph (A)
3 makes a notification under subclause (II), the
4 Government shall initiate judicial review under
5 the procedures established in section 3511 of
6 title 18, United States Code, unless an appro-
7 priate official of the Federal Bureau of Inves-
8 tigation makes a notification under clause (iv).

9 “(iv) TERMINATION.—In the case of any re-
10 quest for which a financial institution has submitted
11 a notification under clause (iii)(II), if the facts sup-
12 porting a nondisclosure requirement cease to exist,
13 an appropriate official of the Federal Bureau of In-
14 vestigation shall promptly notify the financial insti-
15 tution, or officer, employee, or agent thereof, subject
16 to the nondisclosure requirement that the nondisclo-
17 sure requirement is no longer in effect.”.

18 (e) REQUESTS BY AUTHORIZED INVESTIGATIVE
19 AGENCIES.—Section 802 of the National Security Act of
20 1947 (50 U.S.C. 3162), is amended by striking subsection
21 (b) and inserting the following:

22 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

23 “(1) PROHIBITION.—

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

1 the right to judicial review under paragraph (3)
2 is provided, no governmental or private entity,
3 or officer, employee, or agent thereof, that re-
4 ceives a request under subsection (a), shall dis-
5 close to any person that an authorized inves-
6 tigative agency described in subsection (a) has
7 sought or obtained access to information under
8 subsection (a).

9 “(B) CERTIFICATION.—The requirements
10 of subparagraph (A) shall apply if the head of
11 an authorized investigative agency described in
12 subsection (a), or a designee, certifies that, ab-
13 sent a prohibition of disclosure under this sub-
14 section, there may result—

15 “(i) a danger to the national security
16 of the United States;

17 “(ii) interference with a criminal,
18 counterterrorism, or counterintelligence in-
19 vestigation;

20 “(iii) interference with diplomatic re-
21 lations; or

22 “(iv) danger to the life or physical
23 safety of any person.

24 “(2) EXCEPTION.—

1 “(A) IN GENERAL.—A governmental or
2 private entity, or officer, employee, or agent
3 thereof, that receives a request under sub-
4 section (a) may disclose information otherwise
5 subject to any applicable nondisclosure require-
6 ment to—

7 “(i) those persons to whom disclosure
8 is necessary in order to comply with the re-
9 quest;

10 “(ii) an attorney in order to obtain
11 legal advice or assistance regarding the re-
12 quest; or

13 “(iii) other persons as permitted by
14 the head of the authorized investigative
15 agency described in subsection (a).

16 “(B) PERSONS NECESSARY FOR COMPLI-
17 ANCE.—Upon a request by the head of an au-
18 thorized investigative agency described in sub-
19 section (a), or a designee, those persons to
20 whom disclosure will be made under subpara-
21 graph (A)(i) or to whom such disclosure was
22 made before the request shall be identified to
23 the head of the authorized investigative agency
24 or the designee.

1 “(C) NONDISCLOSURE REQUIREMENT.—A
2 person to whom disclosure is made under sub-
3 paragraph (A) shall be subject to the nondisclo-
4 sure requirements applicable to a person to
5 whom a request is issued under subsection (a)
6 in the same manner as the person to whom the
7 request is issued.

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

13 “(3) RIGHT TO JUDICIAL REVIEW.—

14 “(A) IN GENERAL.—A governmental or
15 private entity that receives a request under sub-
16 section (a) shall have the right to judicial re-
17 view of any applicable nondisclosure require-
18 ment.

19 “(B) NOTIFICATION.—A request under
20 subsection (a) shall state that if the recipient
21 wishes to have a court review a nondisclosure
22 requirement, the recipient shall notify the Gov-
23 ernment.

24 “(C) INITIATION OF PROCEEDINGS.—If a
25 recipient of a request under subsection (a)

1 makes a notification under subparagraph (B),
2 the Government shall initiate judicial review
3 under the procedures established in section
4 3511 of title 18, United States Code, unless an
5 appropriate official of the authorized investiga-
6 tive agency described in subsection (a) makes a
7 notification under paragraph (4).

8 “(4) TERMINATION.—In the case of any request
9 for which a governmental or private entity has sub-
10 mitted a notification under paragraph (3)(B), if the
11 facts supporting a nondisclosure requirement cease
12 to exist, an appropriate official of the authorized in-
13 vestigative agency described in subsection (a) shall
14 promptly notify the governmental or private entity,
15 or officer, employee, or agent thereof, subject to the
16 nondisclosure requirement that the nondisclosure re-
17 quirement is no longer in effect.”.

18 **SEC. 6. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL**

19 **SECURITY LETTERS.**

20 (a) FISA.—Section 501(f)(2) of the Foreign Intel-
21 ligence Surveillance Act of 1978 (50 U.S.C. 1861(f)(2))
22 is amended—

23 (1) in subparagraph (A)—

24 (A) in clause (i)—

1 (i) by striking “a production order”
2 and inserting “a production order or non-
3 disclosure order”; and

4 (ii) by striking “Not less than 1 year”
5 and all that follows; and

6 (B) in clause (ii), by striking “production
7 order or nondisclosure”; and

8 (2) in subparagraph (C)—

9 (A) by striking clause (ii); and

10 (B) by redesignating clause (iii) as clause
11 (ii).

12 (b) JUDICIAL REVIEW OF NATIONAL SECURITY LET-
13 TERS.—Section 3511(b) of title 18, United States Code,
14 is amended to read as follows:

15 “(b) NONDISCLOSURE.—

16 “(1) IN GENERAL.—

17 “(A) NOTICE.—If a recipient of a request
18 or order for a report, records, or other informa-
19 tion under section 2709 of this title, section
20 626 or 627 of the Fair Credit Reporting Act
21 (15 U.S.C. 1681u and 1681v), section 1114 of
22 the Right to Financial Privacy Act of 1978 (12
23 U.S.C. 3414), or section 802 of the National
24 Security Act of 1947 (50 U.S.C. 3162), wishes
25 to have a court review a nondisclosure require-

1 ment imposed in connection with the request or
2 order, the recipient shall notify the Govern-
3 ment.

4 “(B) APPLICATION.—Not later than 30
5 days after the date of receipt of a notification
6 under subparagraph (A), the Government shall
7 apply for an order prohibiting the disclosure of
8 the existence or contents of the relevant request
9 or order. An application under this subpara-
10 graph may be filed in the district court of the
11 United States for the judicial district in which
12 the recipient of the order is doing business or
13 in the district court of the United States for
14 any judicial district within which the authorized
15 investigation that is the basis for the request or
16 order is being conducted. The applicable non-
17 disclosure requirement shall remain in effect
18 during the pendency of proceedings relating to
19 the requirement.

20 “(C) CONSIDERATION.—A district court of
21 the United States that receives an application
22 under subparagraph (B) should rule expedi-
23 tiously, and shall, subject to paragraph (3),
24 issue a nondisclosure order that includes condi-
25 tions appropriate to the circumstances.

1 “(2) APPLICATION CONTENTS.—An application
2 for a nondisclosure order or extension thereof under
3 this subsection shall include a certification from the
4 Attorney General, Deputy Attorney General, an As-
5 sistant Attorney General, or the Director of the Fed-
6 eral Bureau of Investigation, or in the case of a re-
7 quest by a department, agency, or instrumentality of
8 the Federal Government other than the Department
9 of Justice, the head or deputy head of the depart-
10 ment, agency, or instrumentality, containing a state-
11 ment of specific facts indicating that, absent a pro-
12 hibition of disclosure under this subsection, there
13 may result—

14 “(A) a danger to the national security of
15 the United States;

16 “(B) interference with a criminal, counter-
17 terrorism, or counterintelligence investigation;

18 “(C) interference with diplomatic relations;

19 or

20 “(D) danger to the life or physical safety
21 of any person.

22 “(3) STANDARD.—A district court of the
23 United States shall issue a nondisclosure require-
24 ment order or extension thereof under this sub-
25 section if the court determines, giving substantial

1 weight to the certification under paragraph (2), that
2 there is reason to believe that disclosure of the infor-
3 mation subject to the nondisclosure requirement dur-
4 ing the applicable time period will result in—

5 “(A) a danger to the national security of
6 the United States;

7 “(B) interference with a criminal, counter-
8 terrorism, or counterintelligence investigation;

9 “(C) interference with diplomatic relations;

10 or

11 “(D) danger to the life or physical safety
12 of any person.”.

13 (c) MINIMIZATION.—Section 501(g)(1) of the For-
14 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
15 1861(g)(1)) is amended by striking “Not later than” and
16 all that follows and inserting “At or before the end of the
17 period of time for the production of tangible things under
18 an order approved under this section or at any time after
19 the production of tangible things under an order approved
20 under this section, a judge may assess compliance with
21 the minimization procedures by reviewing the cir-
22 cumstances under which information concerning United
23 States persons was retained or disseminated.”.

1 **SEC. 7. CERTIFICATION FOR ACCESS TO TELEPHONE TOLL**
2 **AND TRANSACTIONAL RECORDS.**

3 (a) IN GENERAL.—Section 2709 of title 18, United
4 States Code, as amended by this Act, is amended—

5 (1) by striking subsection (e);

6 (2) by redesignating subsections (c) and (d) as
7 subsections (d) and (e), respectively; and

8 (3) by inserting after subsection (b) the fol-
9 lowing:

10 “(c) WRITTEN STATEMENT.—The Director of the
11 Federal Bureau of Investigation, or a designee in a posi-
12 tion not lower than Deputy Assistant Director at Bureau
13 headquarters or a Special Agent in Charge in a Bureau
14 field office designated by the Director, may make a certifi-
15 cation under subsection (b) only upon a written statement,
16 which shall be retained by the Federal Bureau of Inves-
17 tigation, of specific facts showing that there are reason-
18 able grounds to believe that the information sought is rel-
19 evant to the authorized investigation described in sub-
20 section (b).”.

21 (b) IDENTITY OF FINANCIAL INSTITUTIONS AND
22 CREDIT REPORTS.—Section 626 of the Fair Credit Re-
23 porting Act (15 U.S.C. 1681u), as amended by this Act,
24 is amended—

25 (1) by striking subsection (h);

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

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

6 “(d) WRITTEN STATEMENT.—The Director of the
7 Federal Bureau of Investigation, or a designee in a posi-
8 tion not lower than Deputy Assistant Director at Bureau
9 headquarters or a Special Agent in Charge in a Bureau
10 field office designated by the Director, may make a certifi-
11 cation under subsection (a) or (b) only upon a written
12 statement, which shall be retained by the Federal Bureau
13 of Investigation, of specific facts showing that there are
14 reasonable grounds to believe that the information sought
15 is relevant to the authorized investigation described in
16 subsection (a) or (b), as the case may be.”.

17 (c) DISCLOSURES TO GOVERNMENTAL AGENCIES
18 FOR COUNTERTERRORISM PURPOSES.—Section 627(b) of
19 the Fair Credit Reporting Act (15 U.S.C. 1681v(b)) is
20 amended—

21 (1) in the subsection heading, by striking
22 “FORM OF CERTIFICATION” and inserting “CER-
23 TIFICATION”;

24 (2) by striking “The certification” and inserting
25 the following:

1 “(1) FORM OF CERTIFICATION.—The certifi-
2 cation”; and

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

4 “(2) WRITTEN STATEMENT.—A supervisory of-
5 ficial or officer described in paragraph (1) may
6 make a certification under subsection (a) only upon
7 a written statement, which shall be retained by the
8 government agency, of specific facts showing that
9 there are reasonable grounds to believe that the in-
10 formation sought is relevant to the authorized inves-
11 tigation described in subsection (a).”.

12 (d) FINANCIAL RECORDS.—Section 1114(a)(5) of the
13 Right to Financial Privacy Act of 1978 (12 U.S.C.
14 3414(a)(5)), as amended by this Act, is amended—

15 (1) by striking subparagraph (C);

16 (2) by redesignating subparagraph (B) as sub-
17 paragraph (C); and

18 (3) by inserting after subparagraph (A) the fol-
19 lowing:

20 “(B) The Director of the Federal Bureau of Inves-
21 tigation, or a designee in a position not lower than Deputy
22 Assistant Director at Bureau headquarters or a Special
23 Agent in Charge in a Bureau field office designated by
24 the Director, may make a certification under subpara-
25 graph (A) only upon a written statement, which shall be

1 retained by the Federal Bureau of Investigation, of spe-
2 cific facts showing that there are reasonable grounds to
3 believe that the information sought is relevant to the au-
4 thorized investigation described in subparagraph (A).”.

5 (e) REQUESTS BY AUTHORIZED INVESTIGATIVE
6 AGENCIES.—Section 802(a) of the National Security Act
7 of 1947 (50 U.S.C. 3162(a)) is amended by adding at the
8 end the following:

9 “(4) A department or agency head, deputy depart-
10 ment or agency head, or senior official described in para-
11 graph (3)(A) may make a certification under paragraph
12 (3)(A) only upon a written statement, which shall be re-
13 tained by the authorized investigative agency, of specific
14 facts showing that there are reasonable grounds to believe
15 that the information sought is relevant to the authorized
16 inquiry or investigation described in paragraph
17 (3)(A)(ii).”.

18 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) OBSTRUCTION OF CRIMINAL INVESTIGA-
20 TIONS.—Section 1510(e) of title 18, United States
21 Code, is amended by striking “section 2709(c)(1) of
22 this title, section 626(d)(1) or 627(c)(1) of the Fair
23 Credit Reporting Act (15 U.S.C. 1681u(d)(1) or
24 1681v(e)(1)), section 1114(a)(3)(A) or
25 1114(a)(5)(D)(i) of the Right to Financial Privacy

1 Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)),
2 or section 802(b)(1) of the National Security Act of
3 1947 (50 U.S.C. 403(b)(1))” and inserting “section
4 2709(d)(1) of this title, section 626(e)(1) or
5 627(c)(1) of the Fair Credit Reporting Act (15
6 U.S.C. 1681u(e)(1) and 1681v(c)(1)), section
7 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to
8 Financial Privacy Act of 1978 (12 U.S.C.
9 3414(a)(3)(A) or 3414(a)(5)(D)(i)), or section
10 802(b)(1) of the National Security Act of 1947 (50
11 U.S.C. 3162(b)(1))”.

12 (2) SEMIANNUAL REPORTS.—Section 507(b) of
13 the National Security Act of 1947 (50 U.S.C.
14 415b(b)) is amended to read as follows:

15 “(b) SEMIANNUAL REPORTS.—The dates for the sub-
16 mittal to the congressional intelligence committees of the
17 semiannual reports on decisions not to prosecute certain
18 violations of law under the Classified Information Proce-
19 dures Act (18 U.S.C. App.), as required by section 13 of
20 that Act, shall be the dates each year provided in sub-
21 section (c)(2).”.

1 **SEC. 8. PUBLIC REPORTING ON NATIONAL SECURITY LET-**
2 **TERS.**

3 (a) IN GENERAL.—Section 118(c) of the USA PA-
4 TRIOT Improvement and Reauthorization Act of 2005
5 (18 U.S.C. 3511 note) is amended to read as follows:

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

8 “(1) DEFINITIONS.—In this subsection—

9 “(A) the term ‘applicable period’ means—

10 “(i) with respect to the first report
11 submitted under paragraph (2) or (3), the
12 period beginning 180 days after the date
13 of enactment of the FISA Accountability
14 and Privacy Protection Act of 2013 and
15 ending on December 31, 2013; and

16 “(ii) with respect to the second report
17 submitted under paragraph (2) or (3), and
18 each report thereafter, the 6-month period
19 ending on the last day of the second month
20 before the date for submission of the re-
21 port; and

22 “(B) the term ‘United States person’ has
23 the meaning given that term in section 101 of
24 the Foreign Intelligence Surveillance Act of
25 1978 (50 U.S.C. 1801).

26 “(2) CLASSIFIED FORM.—

1 “(A) IN GENERAL.—Not later than March
2 1, 2014, and every 6 months thereafter, the At-
3 torney General shall submit to the Select Com-
4 mittee on Intelligence, the Committee on the
5 Judiciary, and the Committee on Banking,
6 Housing, and Urban Affairs of the Senate and
7 the Permanent Select Committee on Intel-
8 ligence, the Committee on the Judiciary, and
9 the Committee on Financial Services of the
10 House of Representatives a report fully inform-
11 ing the committees concerning the requests
12 made under section 2709(a) of title 18, United
13 States Code, section 1114(a)(5)(A) of the Right
14 to Financial Privacy Act of 1978 (12 U.S.C.
15 3414(a)(5)(A)), section 626 of the Fair Credit
16 Reporting Act (15 U.S.C. 1681u), section 627
17 of the Fair Credit Reporting Act (15 U.S.C.
18 1681v), or section 802 of the National Security
19 Act of 1947 (50 U.S.C. 3162) during the appli-
20 cable period.

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

1 of an authorized national security in-
2 vestigation.

3 “(3) UNCLASSIFIED FORM.—

4 “(A) IN GENERAL.—Not later than March
5 1, 2014, and every 6 months thereafter, the At-
6 torney General shall submit to the Select Com-
7 mittee on Intelligence, the Committee on the
8 Judiciary, and the Committee on Banking,
9 Housing, and Urban Affairs of the Senate and
10 the Permanent Select Committee on Intel-
11 ligence, the Committee on the Judiciary, and
12 the Committee on Financial Services of the
13 House of Representatives a report fully inform-
14 ing the committees concerning the aggregate
15 total of all requests identified under paragraph
16 (2) during the applicable period. Each report
17 under this subparagraph shall be in unclassified
18 form.

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

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

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

1 “(iii) that relate to a person that is—
2 “(I) the subject of an authorized
3 national security investigation; or
4 “(II) an individual who has been
5 in contact with or otherwise directly
6 linked to the subject of an authorized
7 national security investigation; and
8 “(iv) that relate to a person that is
9 not known to be the subject of an author-
10 ized national security investigation or to
11 have been in contact with or otherwise di-
12 rectly linked to the subject of an author-
13 ized national security investigation.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
15 Section 627 of the Fair Credit Reporting Act (15 U.S.C.
16 1681v) is amended by striking subsection (f).

17 **SEC. 9. PUBLIC REPORTING ON THE FOREIGN INTEL-**
18 **LIGENCE SURVEILLANCE ACT OF 1978.**

19 (a) IN GENERAL.—Title VI of the Foreign Intel-
20 ligence Surveillance Act of 1978 (50 U.S.C. 1871) is
21 amended by adding at the end the following:

22 **“SEC. 602. ANNUAL UNCLASSIFIED REPORT.**

23 “Not later than December 31, 2014, and every year
24 thereafter, the Attorney General, in consultation with the
25 Director of National Intelligence, and with due regard for

1 the protection of classified information from unauthorized
2 disclosure, shall submit to the Committee on the Judiciary
3 and the Select Committee on Intelligence of the Senate
4 and the Committee on the Judiciary and the Permanent
5 Select Committee on Intelligence of the House of Rep-
6 resentatives an unclassified report summarizing how the
7 authorities under this Act are used, including the impact
8 of the use of the authorities under this Act on the privacy
9 of United States persons (as defined in section 101).”.

10 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
11 The table of contents in the first section of the Foreign
12 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
13 seq.) is amended by inserting after the item relating to
14 section 601 the following:

“Sec. 602. Annual unclassified report.”.

15 **SEC. 10. AUDITS.**

16 (a) **TANGIBLE THINGS.**—Section 106A of the USA
17 PATRIOT Improvement and Reauthorization Act of 2005
18 (Public Law 109–177; 120 Stat. 200) is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (1), by inserting “and
21 calendar years 2010 through 2013” after
22 “2006”;

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

24 (C) by redesignating paragraphs (4) and
25 (5) as paragraphs (2) and (3), respectively; and

1 (D) in paragraph (3), as so redesignated—

2 (i) by striking subparagraph (C) and

3 inserting the following:

4 “(C) with respect to calendar years 2010

5 through 2013, an examination of the minimiza-

6 tion procedures used in relation to orders under

7 section 501 of the Foreign Intelligence Surveil-

8 lance Act of 1978 (50 U.S.C. 1861) and wheth-

9 er the minimization procedures adequately pro-

10 tect the constitutional rights of United States

11 persons.”; and

12 (ii) in subparagraph (D), by striking

13 “(as such term is defined in section 3(4) of

14 the National Security Act of 1947 (50

15 U.S.C. 401a(4))”;

16 (2) in subsection (c), by adding at the end the

17 following:

18 “(3) CALENDAR YEARS 2010 AND 2011.—Not

19 later than January 1, 2014, the Inspector General

20 of the Department of Justice shall submit to the

21 Committee on the Judiciary and the Select Com-

22 mittee on Intelligence of the Senate and the Com-

23 mittee on the Judiciary and the Permanent Select

24 Committee on Intelligence of the House of Rep-

25 resentatives a report containing the results of the

1 audit conducted under subsection (a) for calendar
2 years 2010 and 2011.

3 “(4) CALENDAR YEARS 2012 AND 2013.—Not
4 later than January 1, 2015, the Inspector General
5 of the Department of Justice shall submit to the
6 Committee on the Judiciary and the Select Com-
7 mittee on Intelligence of the Senate and the Com-
8 mittee on the Judiciary and the Permanent Select
9 Committee on Intelligence of the House of Rep-
10 resentatives a report containing the results of the
11 audit conducted under subsection (a) for calendar
12 years 2012 and 2013.”;

13 (3) by redesignating subsections (d) and (e) as
14 subsections (e) and (f), respectively;

15 (4) by inserting after subsection (c) the fol-
16 lowing:

17 “(d) INTELLIGENCE ASSESSMENT.—

18 “(1) IN GENERAL.—For the period beginning
19 on January 1, 2010 and ending on December 31,
20 2013, the Inspector General of each element of the
21 intelligence community outside of the Department of
22 Justice that used information acquired under title V
23 of the Foreign Intelligence Surveillance Act of 1978
24 (50 U.S.C. 1861 et seq.) in the intelligence activities
25 of the element of the intelligence community shall—

1 “(A) assess the importance of the informa-
2 tion to the intelligence activities of the element
3 of the intelligence community;

4 “(B) examine the manner in which that in-
5 formation was collected, retained, analyzed, and
6 disseminated by the element of the intelligence
7 community;

8 “(C) describe any noteworthy facts or cir-
9 cumstances relating to orders under title V of
10 the Foreign Intelligence Surveillance Act of
11 1978 as the orders relate to the element of the
12 intelligence community; and

13 “(D) examine any minimization procedures
14 used by the element of the intelligence commu-
15 nity under title V of the Foreign Intelligence
16 Surveillance Act of 1978 and whether the mini-
17 mization procedures adequately protect the con-
18 stitutional rights of United States persons.

19 “(2) SUBMISSION DATES FOR ASSESSMENT.—

20 “(A) CALENDAR YEARS 2010 AND 2011.—

21 Not later than January 1, 2014, the Inspector
22 General of each element of the intelligence com-
23 munity that conducts an assessment under this
24 subsection shall submit to the Committee on the
25 Judiciary and the Select Committee on Intel-

1 ligence of the Senate and the Committee on the
2 Judiciary and the Permanent Select Committee
3 on Intelligence of the House of Representative
4 a report containing the results of the assess-
5 ment for calendar years 2010 and 2011.

6 “(B) CALENDAR YEARS 2012 AND 2013.—
7 Not later than January 1, 2015, the Inspector
8 General of each element of the intelligence com-
9 munity that conducts an assessment under this
10 subsection shall submit to the Committee on the
11 Judiciary and the Select Committee on Intel-
12 ligence of the Senate and the Committee on the
13 Judiciary and the Permanent Select Committee
14 on Intelligence of the House of Representatives
15 a report containing the results of the assess-
16 ment for calendar years 2012 and 2013.”;

17 (5) in subsection (e), as redesignated by para-
18 graph (3)—

19 (A) in paragraph (1)—

20 (i) by striking “a report under sub-
21 section (c)(1) or (c)(2)” and inserting “any
22 report under subsection (c) or (d)”;

23 (ii) by inserting “and any Inspector
24 General of an element of the intelligence

1 community that submits a report under
2 this section” after “Justice”; and

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

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

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

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

15 (7) by adding at the end the following:

16 “(g) DEFINITIONS.—In this section—

17 “(1) the term ‘intelligence community’ has the
18 meaning given that term in section 3 of the National
19 Security Act of 1947 (50 U.S.C. 3003); and

20 “(2) the term ‘United States person’ has the
21 meaning given that term in section 101 of the For-
22 eign Intelligence Surveillance Act of 1978 (50
23 U.S.C. 1801).”.

24 (b) NATIONAL SECURITY LETTERS.—Section 119 of
25 the USA PATRIOT Improvement and Reauthorization

1 Act of 2005 (Public Law 109–177; 120 Stat. 219) is
2 amended—

3 (1) in subsection (b)—

4 (A) in paragraph (1), by inserting “and
5 calendar years 2010 through 2013” after
6 “2006”; and

7 (B) in paragraph (3)(C), by striking “(as
8 such term is defined in section 3(4) of the Na-
9 tional Security Act of 1947 (50 U.S.C.
10 401a(4)))”;

11 (2) in subsection (c), by adding at the end the
12 following:

13 “(3) CALENDAR YEARS 2010 AND 2011.—Not
14 later than January 1, 2014, the Inspector General
15 of the Department of Justice shall submit to the
16 Committee on the Judiciary and the Permanent Se-
17 lect Committee on Intelligence of the House of Rep-
18 resentatives and the Committee on the Judiciary and
19 the Select Committee on Intelligence of the Senate
20 a report containing the results of the audit con-
21 ducted under subsection (a) for calendar years 2010
22 and 2011.

23 “(4) CALENDAR YEARS 2012 AND 2013.—Not
24 later than January 1, 2015, the Inspector General
25 of the Department of Justice shall submit to the

1 Committee on the Judiciary and the Permanent Se-
2 lect Committee on Intelligence of the House of Rep-
3 resentatives and the Committee on the Judiciary and
4 the Select Committee on Intelligence of the Senate
5 a report containing the results of the audit con-
6 ducted under subsection (a) for calendar years 2012
7 and 2013.”;

8 (3) by striking subsection (g) and inserting the
9 following:

10 “(h) DEFINITIONS.—In this section—

11 “(1) the term ‘intelligence community’ has the
12 meaning given that term in section 3 of the National
13 Security Act of 1947 (50 U.S.C. 3003);

14 “(2) the term ‘national security letter’ means a
15 request for information under—

16 “(A) section 2709(a) of title 18, United
17 States Code (to access certain communication
18 service provider records);

19 “(B) section 1114(a)(5)(A) of the Right to
20 Financial Privacy Act of 1978 (12 U.S.C.
21 3414(a)(5)(A)) (to obtain financial institution
22 customer records);

23 “(C) section 802 of the National Security
24 Act of 1947 (50 U.S.C. 3162) (to obtain finan-

1 cial information, records, and consumer re-
2 ports);

3 “(D) section 626 of the Fair Credit Re-
4 porting Act (15 U.S.C. 1681u) (to obtain cer-
5 tain financial information and consumer re-
6 ports); or

7 “(E) section 627 of the Fair Credit Re-
8 porting Act (15 U.S.C. 1681v) (to obtain credit
9 agency consumer records for counterterrorism
10 investigations); and

11 “(3) the term ‘United States person’ has the
12 meaning given that term in section 101 of the For-
13 eign Intelligence Surveillance Act of 1978 (50
14 U.S.C. 1801).”;

15 (4) by redesignating subsections (d), (e), and
16 (f) as subsections (e), (f), and (g), respectively;

17 (5) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) INTELLIGENCE ASSESSMENT.—

20 “(1) IN GENERAL.—For the period beginning
21 on January 1, 2010 and ending on December 31,
22 2013, the Inspector General of each element of the
23 intelligence community outside of the Department of
24 Justice that issued national security letters in the

1 intelligence activities of the element of the intel-
2 ligence community shall—

3 “(A) examine the use of national security
4 letters by the element of the intelligence com-
5 munity during the period;

6 “(B) describe any noteworthy facts or cir-
7 cumstances relating to the use of national secu-
8 rity letters by the element of the intelligence
9 community, including any improper or illegal
10 use of such authority;

11 “(C) assess the importance of information
12 received under the national security letters to
13 the intelligence activities of the element of the
14 intelligence community; and

15 “(D) examine the manner in which infor-
16 mation received under the national security let-
17 ters was collected, retained, analyzed, and dis-
18 seminated.

19 “(2) SUBMISSION DATES FOR ASSESSMENT.—

20 “(A) CALENDAR YEARS 2010 AND 2011.—

21 Not later than January 1, 2014, the Inspector
22 General of each element of the intelligence com-
23 munity that conducts an assessment under this
24 subsection shall submit to the Committee on the
25 Judiciary and the Select Committee on Intel-

1 ligence of the Senate and the Committee on the
2 Judiciary and the Permanent Select Committee
3 on Intelligence of the House of Representatives
4 a report containing the results of the assess-
5 ment for calendar years 2010 and 2011.

6 “(B) CALENDAR YEARS 2012 AND 2013.—
7 Not later than January 1, 2015, the Inspector
8 General of any element of the intelligence com-
9 munity that conducts an assessment under this
10 subsection shall submit to the Committee on the
11 Judiciary and the Select Committee on Intel-
12 ligence of the Senate and the Committee on the
13 Judiciary and the Permanent Select Committee
14 on Intelligence of the House of Representatives
15 a report containing the results of the assess-
16 ment for calendar years 2012 and 2013.”;

17 (6) in subsection (e), as redesignated by para-
18 graph (4)—

19 (A) in paragraph (1)—

20 (i) by striking “a report under sub-
21 section (c)(1) or (c)(2)” and inserting “any
22 report under subsection (c) or (d)”;

23 (ii) by inserting “and any Inspector
24 General of an element of the intelligence

1 community that submits a report under
2 this section” after “Justice”; and

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

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

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

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

15 (c) PEN REGISTERS AND TRAP AND TRACE DE-
16 VICES.—

17 (1) AUDITS.—The Inspector General of the De-
18 partment of Justice shall perform comprehensive au-
19 dits of the effectiveness and use, including any im-
20 proper or illegal use, of pen registers and trap and
21 trace devices under title IV of the Foreign Intel-
22 ligence Surveillance Act of 1978 (50 U.S.C. 1841 et
23 seq.) during the period beginning on January 1,
24 2010 and ending on December 31, 2013.

1 (ii) the manner in which the informa-
2 tion is collected, retained, analyzed, and
3 disseminated by the Federal Bureau of In-
4 vestigation, including any direct access to
5 the information provided to any other de-
6 partment, agency, or instrumentality of
7 Federal, State, local, or tribal governments
8 or any private sector entity;

9 (iii) with respect to calendar years
10 2012 and 2013, an examination of the
11 minimization procedures of the Federal
12 Bureau of Investigation used in relation to
13 pen registers and trap and trace devices
14 under title IV of the Foreign Intelligence
15 Surveillance Act of 1978 and whether the
16 minimization procedures adequately protect
17 the constitutional rights of United States
18 persons;

19 (iv) whether, and how often, the Fed-
20 eral Bureau of Investigation used informa-
21 tion acquired under a pen register or trap
22 and trace device under title IV of the For-
23 eign Intelligence Surveillance Act of 1978
24 to produce an analytical intelligence prod-
25 uct for distribution within the Federal Bu-

1 reau of Investigation, to the intelligence
2 community, or to another department,
3 agency, or instrumentality of Federal,
4 State, local, or tribal governments; and

5 (v) whether, and how often, the Fed-
6 eral Bureau of Investigation provided in-
7 formation acquired under a pen register or
8 trap and trace device under title IV of the
9 Foreign Intelligence Surveillance Act of
10 1978 to law enforcement authorities for
11 use in criminal proceedings.

12 (3) SUBMISSION DATES.—

13 (A) CALENDAR YEARS 2010 AND 2011.—
14 Not later than January 1, 2014, the Inspector
15 General of the Department of Justice shall sub-
16 mit to the Committee on the Judiciary and the
17 Select Committee on Intelligence of the Senate
18 and the Committee on the Judiciary and the
19 Permanent Select Committee on Intelligence of
20 the House of Representatives a report con-
21 taining the results of the audits conducted
22 under paragraph (1) for calendar years 2010
23 and 2011.

24 (B) CALENDAR YEARS 2012 AND 2013.—
25 Not later than January 1, 2015, the Inspector

1 (ii) examine the manner in which the
2 information was collected, retained, ana-
3 lyzed, and disseminated;

4 (iii) describe any noteworthy facts or
5 circumstances relating to orders under title
6 IV of the Foreign Intelligence Surveillance
7 Act of 1978 as the orders relate to the ele-
8 ment of the intelligence community; and

9 (iv) examine any minimization proce-
10 dures used by the element of the intel-
11 ligence community in relation to pen reg-
12 isters and trap and trace devices under
13 title IV of the Foreign Intelligence Surveil-
14 lance Act of 1978 and whether the mini-
15 mization procedures adequately protect the
16 constitutional rights of United States per-
17 sons.

18 (B) SUBMISSION DATES FOR ASSESS-
19 MENT.—

20 (i) CALENDAR YEARS 2010 AND
21 2011.—Not later than January 1, 2014,
22 the Inspector General of each element of
23 the intelligence community that conducts
24 an assessment under this paragraph shall
25 submit to the Committee on the Judiciary

1 and the Select Committee on Intelligence
2 of the Senate and the Committee on the
3 Judiciary and the Permanent Select Com-
4 mittee on Intelligence of the House of Rep-
5 resentative a report containing the results
6 of the assessment for calendar years 2010
7 and 2011.

8 (ii) CALENDAR YEARS 2012 AND
9 2013.—Not later than January 1, 2015,
10 the Inspector General of each element of
11 the intelligence community that conducts
12 an assessment under this paragraph shall
13 submit to the Committee on the Judiciary
14 and the Select Committee on Intelligence
15 of the Senate and the Committee on the
16 Judiciary and the Permanent Select Com-
17 mittee on Intelligence of the House of Rep-
18 resentative a report containing the results
19 of the assessment for calendar years 2012
20 and 2013.

21 (5) PRIOR NOTICE TO ATTORNEY GENERAL AND
22 DIRECTOR OF NATIONAL INTELLIGENCE; COM-
23 MENTS.—

24 (A) NOTICE.—Not later than 30 days be-
25 fore the submission of any report under para-

1 graph (3) or (4), the Inspector General of the
2 Department of Justice and any Inspector Gen-
3 eral of an element of the intelligence community
4 that submits a report under this subsection
5 shall provide the report to the Attorney General
6 and the Director of National Intelligence.

7 (B) COMMENTS.—The Attorney General or
8 the Director of National Intelligence may pro-
9 vide such comments to be included in any re-
10 port submitted under paragraph (3) or (4) as
11 the Attorney General or the Director of Na-
12 tional Intelligence may consider necessary.

13 (6) UNCLASSIFIED FORM.—Each report sub-
14 mitted under paragraph (3) and any comments in-
15 cluded in that report under paragraph (5)(B) shall
16 be in unclassified form, but may include a classified
17 annex.

18 (d) DEFINITIONS.—In this section—

19 (1) the terms “Attorney General”, “foreign in-
20 telligence information”, and “United States person”
21 have the meanings given those terms in section 101
22 of the Foreign Intelligence Surveillance Act of 1978
23 (50 U.S.C. 1801);

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

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

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

11 **SEC. 11. DELAYED NOTICE SEARCH WARRANTS.**

12 Section 3103a(b)(3) of title 18, United States Code,
13 is amended by striking “30 days” and inserting “7 days”.

14 **SEC. 12. INSPECTOR GENERAL REVIEWS.**

15 (a) AGENCY ASSESSMENTS.—Section 702(l)(2) of the
16 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
17 1881a(l)(2)) is amended—

18 (1) in the matter preceding subparagraph (A),
19 by striking “authorized to acquire foreign intel-
20 ligence information under subsection (a)” and in-
21 serting “with targeting or minimization procedures
22 approved under this section”;

23 (2) in subparagraph (C), by inserting “United
24 States persons or” after “later determined to be”;
25 and

1 (3) in subparagraph (D)—

2 (A) in the matter preceding clause (i), by
3 striking “such review” and inserting “review
4 conducted under this paragraph”;

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

7 (C) by redesignating clause (iii) as clause
8 (iv); and

9 (D) by inserting after clause (ii), the fol-
10 lowing:

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

13 (b) INSPECTOR GENERAL OF THE INTELLIGENCE
14 COMMUNITY REVIEW.—Section 702(1) of the Foreign In-
15 telligence Surveillance Act of 1978 (50 U.S.C. 1881a(1))
16 is amended—

17 (1) by redesignating paragraph (3) as para-
18 graph (4); and

19 (2) by inserting after paragraph (2) the fol-
20 lowing:

21 “(3) INSPECTOR GENERAL OF THE INTEL-
22 LIGENCE COMMUNITY REVIEW.—

23 “(A) IN GENERAL.—The Inspector General
24 of the Intelligence Community is authorized to
25 review the acquisition, use, and dissemination

1 of information acquired under subsection (a) in
2 order to review compliance with the targeting
3 and minimization procedures adopted in accord-
4 ance with subsections (d) and (e) and the
5 guidelines adopted in accordance with sub-
6 section (f), and in order to conduct the review
7 required under subparagraph (B).

8 “(B) MANDATORY REVIEW.—The Inspec-
9 tor General of the Intelligence Community shall
10 review the procedures and guidelines developed
11 by the intelligence community to implement this
12 section, with respect to the protection of the
13 privacy rights of United States persons, includ-
14 ing—

15 “(i) an evaluation of the limitations
16 outlined in subsection (b), the procedures
17 approved in accordance with subsections
18 (d) and (e), and the guidelines adopted in
19 accordance with subsection (f), with re-
20 spect to the protection of the privacy rights
21 of United States persons; and

22 “(ii) an evaluation of the cir-
23 cumstances under which the contents of
24 communications acquired under subsection
25 (a) may be searched in order to review the

1 communications of particular United
2 States persons.

3 “(C) CONSIDERATION OF OTHER REVIEWS
4 AND ASSESSMENTS.—In conducting a review
5 under subparagraph (B), the Inspector General
6 of the Intelligence Community should take into
7 consideration, to the extent relevant and appro-
8 priate, any reviews or assessments that have
9 been completed or are being undertaken under
10 this section.

11 “(D) REPORT.—Not later than December
12 31, 2014, the Inspector General of the Intel-
13 ligence Community shall submit a report re-
14 garding the reviews conducted under this para-
15 graph to—

16 “(i) the Attorney General;

17 “(ii) the Director of National Intel-
18 ligence; and

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

24 “(I) the congressional intelligence
25 committees; and

1 “(II) the Committee on the Judi-
2 ciary of the Senate and the Com-
3 mittee on the Judiciary of the House
4 of Representatives.

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

13 (c) ANNUAL REVIEWS.—Section 702(l)(4)(A) of the
14 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
15 1881a(l)(4)(A)), as redesignated by subsection (b)(1), is
16 amended—

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

18 (A) in the first sentence—

19 (i) by striking “conducting an acquisi-
20 tion authorized under subsection (a)” and
21 inserting “with targeting or minimization
22 procedures approved under this section”;
23 and

1 (ii) by striking “the acquisition” and
2 inserting “acquisitions under subsection
3 (a)”; and

4 (B) in the second sentence, by striking
5 “The annual review” and inserting “As applica-
6 ble, the annual review”; and

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

9 **SEC. 13. ELECTRONIC SURVEILLANCE.**

10 Section 105(c)(1)(A) of the Foreign Intelligence Sur-
11 veillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amend-
12 ed by inserting “with particularity” after “description”.

13 **SEC. 14. SEVERABILITY.**

14 If any provision of this Act or an amendment made
15 by this Act, or the application of the provision to any per-
16 son or circumstance, is held to be unconstitutional, the
17 remainder of this Act and the amendments made by this
18 Act, and the application of the provisions of this Act and
19 the amendments made by this Act to any other person
20 or circumstance, shall not be affected thereby.

21 **SEC. 15. OFFSET.**

22 Of the unobligated balances available in the Depart-
23 ment of Justice Assets Forfeiture Fund established under
24 section 524(c)(1) of title 28, United States Code,

1 \$5,000,000 are permanently rescinded and shall be re-
2 turned to the general fund of the Treasury.

3 **SEC. 16. EFFECTIVE DATE.**

4 The amendments made by sections 3, 4, 5, 6, 7, and
5 11 shall take effect on the date that is 120 days after
6 the date of enactment of this Act.