To extend and modify authorities needed to combat terrorism and protect civil liberties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CONYERS (for himself, Mr. NADLER of New York, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on

A BILL

To extend and modify authorities needed to combat terrorism and protect civil liberties, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “USA PATRIOT Amendments Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—USA PATRIOT ACT RELATED AMENDMENTS
Sec. 101. Roving wiretaps.
Sec. 102. Extension of sunset of sections 206 and 215 of USA PATRIOT Act.
Sec. 103. Access to certain tangible things under section 501 of the Foreign Intelligence Surveillance Act of 1978.
Sec. 104. Sunset relating to individual terrorists as agents of foreign powers.
Sec. 105. Audits.
Sec. 106. Criminal “sneak and peak” searches.
Sec. 107. Use of pen registers and trap and trace devices under title 18, United States Code.
Sec. 108. Orders for pen registers and trap and trace devices for foreign intelligence purposes.
Sec. 110. Challenges to nationwide orders for electronic evidence.

TITLE II—NATIONAL SECURITY LETTER REFORM

Sec. 201. Short title.
Sec. 203. National security letter defined.
Sec. 204. Modification of standard.
Sec. 205. Notification of right to judicial review of nondisclosure order.
Sec. 206. Disclosure for law enforcement purposes.
Sec. 207. Judicial review of national security letter nondisclosure order.
Sec. 208. Minimization Procedures.

TITLE I—USA PATRIOT ACT RELATED AMENDMENTS

SEC. 101. ROVING WIRETAPS.

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

(1) in section 104(a)(2), by striking “electronic surveillance” and inserting “electronic surveillance sufficient to allow a judge to determine that the target is a single individual”; and

(2) in section 105(a)—

(A) in paragraph (3), by striking “and”;

(B) in paragraph (4), by striking the period and inserting “; and”; and
(C) by adding at the end the following new paragraph:

“(5) the identity or description of the specific target of electronic surveillance included in the application pursuant to section 104(a)(2) is sufficient to allow the judge to determine that the target is a single individual.”.

SEC. 102. EXTENSION OF SUNSET OF SECTIONS 206 AND 215 OF USA PATRIOT ACT.

Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 2510 note) is amended by striking “December 31, 2009” and inserting “December 31, 2013”.

SEC. 103. ACCESS TO CERTAIN TANGIBLE THINGS UNDER SECTION 501 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) Factual Basis for and Issuance of Orders.—

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

(A) in the section heading, by striking “CERTAIN BUSINESS RECORDS” and inserting “TANGIBLE THINGS”; and
(B) in subsection (b)(2)(A), by striking “a statement of facts” and inserting “a statement of specific and articulable facts”.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—

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

(B) **TABLE OF CONTENTS.**—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to title V and section 501 and inserting the following:

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

“Sec. 501. Access to tangible things for foreign intelligence purposes and international terrorism investigations.”.
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(b) **JUDICIAL REVIEW OF FISA ORDERS.**—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in subsection (e)(2)—

(A) in subparagraph (D) by striking “things; and” and inserting “things;”;

(500493/25)
(B) in subparagraph (E), by striking “subsection (a).” and inserting “subsection (a); and

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

“(F) shall direct the applicant to provide notice to each person receiving such order of—

“(i) the right to challenge the legality of a production order or nondisclosure order by filing a petition in accordance with subsection (f); and

“(ii) the procedures to follow to file such petition in accordance with such subsection.”; and

(2) in subsection (f)(2)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking “a production order” and inserting “a production order or nondisclosure order”; and

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

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

(B) in subparagraph (C)—
(i) by striking clause (ii); and

(ii) by redesignating clause (iii) as clause (ii).

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

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) COMPLIANCE ASSESSMENT.—At or before the end of the period of time for the production of tangible things under an order approved under this section or at any time after the production of tangible things under such order, a judge may assess compliance with the minimization procedures required to be followed under such order by reviewing the circumstances under which information concerning United States persons was retained or disseminated.”.

(d) EXEMPTION OF BOOKSTORES AND LIBRARIES FROM ORDERS REQUIRING THE PRODUCTION OF ANY TANGIBLE THINGS FOR CERTAIN FOREIGN INTELLIGENCE INVESTIGATIONS.—Section 501 of the Foreign
Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in subsection (a)(3)—

(A) by striking “library patron lists,”; and

(B) by striking “book customer lists,”; and

(2) by adding at the end the following new subsection:

“(i) PROHIBITION ON APPLICATION FOR CERTAIN INFORMATION FROM BOOKSELLERS AND LIBRARIES.—

“(1) IN GENERAL.—No application may be made under this section with either the purpose or effect of searching for, or seizing from, a bookseller or library documentary materials that contain personally identifiable information concerning a patron of a bookseller or library.

“(2) DEFINITIONS.—In this subsection:

“(A) The term ‘bookseller’ means any person or entity engaged in the sale, rental or delivery of books, journals, magazines or other similar forms of communication in print or digitally.

“(B) The term ‘library’ has the meaning given that term under section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the
Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.

“(C) The term ‘patron’ means any purchaser, renter, borrower, user, or subscriber of goods or services from a library or bookseller.

“(D) The term ‘documentary materials’ means any document, tape, or other communication created by a bookseller or library in connection with print or digital dissemination of a book, journal, magazine, newspaper, or other similar form of communication, including access to the Internet.

“(E) The term ‘personally identifiable information’ includes information that identifies a person as having used, requested, or obtained specific reading materials or services from a bookseller or library.”.

SEC. 104. SUNSET RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

Section 6001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note; Public Law 108-458) is amended—

(1) in paragraph (1)—
(A) by striking “the amendment made by subsection (a) shall cease to have effect” and inserting “effective”; and

(B) by striking the period and inserting “—

“(A) subparagraph (C) of section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is repealed;

“(B) subparagraphs (D) and (E) of such section are redesignated as subparagraphs (C) and (D), respectively;

“(C) paragraph (2) of section 601(a) of such Act (50 U.S.C. 1871(a)) is repealed; and

“(D) paragraphs (3), (4), and (5) of such section are redesignated as paragraphs (2), (3), and (4), respectively.”; and

(2) in paragraph (2)—

(A) by striking “EXCEPTION.—With respect to” and inserting “EXCEPTION.—

“(A) EXISTING INVESTIGATIONS.—With respect to”; and

(B) by adding at the end the following new subparagraph:
"(B) REPORTS.—Notwithstanding the repeals made by paragraph (1), the first report required under section 601(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871(a)) that is submitted after the effective date of such repeals shall include the number of individuals covered by an order issued pursuant to section 101(b)(1)(C) of such Act (as in effect on the day before such effective date)."

SEC. 105. AUDITS.

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

(1) in subsection (b)—

(A) in paragraph (1), by striking "2006" and inserting "2013"; and

(B) in paragraph (5)(C), by striking "calendar year 2006" and inserting "each of calendar years 2006 through 2013";

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

“(3) CALENDAR YEARS 2007 THROUGH 2009.—Not later than December 31, 2010, the Inspector General of the Department of Justice shall
submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for calendar years 2007 through 2009.

“(4) Calendar years 2010 through 2013.—Not later than December 31, 2011, and annually thereafter until December 31, 2014, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for the preceding calendar year.”;

(3) in subsection (d)—

(A) in paragraph (1), by striking “or (c)(2)” and inserting “(c)(2), (c)(3), or (c)(4)”;

and

(B) in paragraph (2), by striking “and (c)(2)” and inserting “(c)(2), (c)(3), or (c)(4)”;

and
(4) in subsection (e), by striking “and (c)(2)” and inserting “(c)(2), (c)(3), or (c)(4)”.

(b) NATIONAL SECURITY LETTERS.—Section 119 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 120 Stat. 219) is amended—

(1) in subsection (b)(1), by striking “2006” and inserting “2013”;

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

“(3) CALENDAR YEARS 2007 THROUGH 2009.—Not later than December 31, 2010, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for calendar years 2007 through 2009.

“(4) CALENDAR YEARS 2010 THROUGH 2013.—Not later than December 31, 2011, and annually thereafter until December 31, 2014, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the
Permanently Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this section for the previous calendar year."

(3) in subsection (d)—

(A) in paragraph (1), by striking “or (c)(2)” and inserting “(e)(2), (e)(3), or (e)(4)”;

and

(B) in paragraph (2), by striking “or (c)(2)” and inserting “(e)(2), (e)(3), or (e)(4)”;

and

(4) in subsection (e), by striking “or (c)(2)” and inserting “(c)(2), (c)(3), or (c)(4)”.

(e) Pen Registers and Trap and Trace Devices.—

(1) Audits.—The Inspector General of the Department of Justice shall perform comprehensive audits of the effectiveness and use, including any improper or illegal use, of pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841 et seq.) during the period beginning on January 1, 2007 and ending on December 31, 2012.
(2) REQUIREMENTS.—The audits required under paragraph (1) shall include—

(A) an examination of each instance in which the Attorney General or any other attorney for the Government submitted an application for an order or extension of an order under title IV of the Foreign Intelligence Surveillance Act of 1978, including whether the court granted, modified, or denied the application (including an examination of the basis for any modification or denial);

(B) an examination of each instance in which the Attorney General authorized the installation and use of a pen register or trap and trace device on an emergency basis under section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843);

(C) whether the Federal Bureau of Investigation requested that the Department of Justice submit an application for an order or extension of an order under title IV of the Foreign Intelligence Surveillance Act of 1978 and the request was not submitted to the court (including an examination of the basis for not submitting the application);
(D) whether bureaucratic or procedural impediments to the use of pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 prevent the Federal Bureau of Investigation from taking full advantage of the authorities provided under that title;

(E) any noteworthy facts or circumstances relating to the use of a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978, including any improper or illegal use of the authority provided under that title; and

(F) an examination of the effectiveness of the authority under title IV of the Foreign Intelligence Surveillance Act of 1978 as an investigative tool, including—

(i) the importance of the information acquired to the intelligence activities of the Federal Bureau of Investigation or any other department or agency of the Federal Government;

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

(iii) with respect to calendar years
2010 through 2012, an examination of the
minimization procedures used in relation to
pen registers and trap and trace devices
under title IV of the Foreign Intelligence
Surveillance Act of 1978 and whether the
minimization procedures protect the con-
stitutional rights of United States persons;

(iv) whether, and how often, the Fed-
eral Bureau of Investigation used informa-
tion acquired under a pen register or trap
and trace device under title IV of the For-
eign Intelligence Surveillance Act of 1978
to produce an analytical intelligence prod-
uct for distribution within the Federal Bu-
reau of Investigation, to the intelligence
community (as defined in section 3(4) of
the National Security Act of 1947 (50
U.S.C. 401a(4))), or to other Federal,
17 State, local, or tribal government depart-
ments, agencies, or instrumentalities; and

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

(3) Submission dates.—

(A) Prior years.—Not later than Decem-
ber 31, 2010, the Inspector General of the De-
partment of Justice shall submit to the Com-
mittee on the Judiciary and the Select Com-
mittee on Intelligence of the Senate and the
Committee on the Judiciary and the Permanent
Select Committee on Intelligence of the House
of Representatives a report containing the re-
results of the audit conducted under this section
for calendar years 2007 through 2009.

(B) Calendar years 2010 through
2013.—Not later than December 31, 2011, and
annually thereafter until December 31, 2014,
the Inspector General of the Department of
Justice shall submit to the Committee on the
Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audit conducted under this section for the previous calendar year.

(4) PRIOR NOTICE TO ATTORNEY GENERAL AND DIRECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

(A) Notice.—Not less than 30 days before the submission of a report under subparagraph (A) or (B) of paragraph (3), the Inspector General of the Department of Justice shall provide the report to the Attorney General and the Director of National Intelligence.

(B) Comments.—The Attorney General or the Director of National Intelligence may provide such comments to be included in a report submitted under subparagraph (A) or (B) of paragraph (3) as the Attorney General or the Director of National Intelligence may consider necessary.

(5) UNCLASSIFIED FORM.—A report submitted under subparagraph (A) or (B) of paragraph (3)
and any comments included under paragraph (4)(B) shall be in unclassified form, but may include a classified annex.”.

SEC. 106. CRIMINAL “SNEAK AND PEAK” SEARCHES.

Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “may have an adverse result (as defined in section 2705, except if the adverse results consist only of unduly delaying a trial)” and inserting “will endanger the life or physical safety of an individual, result in flight from prosecution, result in the destruction of or tampering with the evidence sought under the warrant, or result in intimidation of potential witnesses”; and

(B) in paragraph (3), by striking “30 days” and all that follows and inserting “7 days after the date of its execution.”; and

(2) in subsection (c), by striking “for good cause shown” and all that follows and inserting “upon application of the United States Attorney for the district seeking the delay, for additional periods of not more than 21 days for each application, if the court finds, for each application, reasonable cause to
believe that notice of the execution of the warrant will endanger the life or physical safety of an individual, result in flight from prosecution, result in the destruction of or tampering with the evidence sought under the warrant, or result in intimidation of potential witnesses.”.

SEC. 107. USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES UNDER TITLE 18, UNITED STATES CODE.

Section 3122(b)(2) of title 18, United States Code, is amended to read as follows:

“(2) a statement of specific and articulable facts by the applicant to justify the belief of the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.”.

SEC. 108. ORDERS FOR PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES.

(a) APPLICATION.—Section 402(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)) is amended—

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

(2) in paragraph (2)—
(A) by striking “a certification by the applicant” and inserting “a statement of the specific and articulable facts relied upon by the applicant to justify the belief of the applicant”; and

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

(3) by adding at the end the following:

“(3) a statement of proposed minimization procedures.”.

(b) MINIMIZATION PROCEDURES.—

(1) DEFINITION.—Section 401 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841) is amended by adding at the end the following:

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

“(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the installation and use of a pen register or trap and trace device, to minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to
obtain, produce, and disseminate foreign intelligence information;

“(B) procedures that require that nonpublicly available information, which is not foreign intelligence information shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance; and

“(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.”.

(2) Pen registers and trap and trace devices.—Section 402 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842) is amended—

(A) in subsection (d)—

(i) in paragraph (1)—
(I) by striking “finds that the application” and inserting the following: “finds that—

“(A) the application”;

(II) in subparagraph (A), as designated by subclause (I) of this clause, by striking “section.” and inserting “section; and”; and

(III) by adding at the end the following new subparagraph:

“(B) the proposed minimization procedures meet the definition of minimization procedures under this title.”.

(ii) in paragraph (2)(B)—

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

(II) by adding at the end the following:

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

(B) by adding at the end the following:

“(h) At or before the end of the period of time for which the installation and use of a pen register or trap and trace device is approved under an order or an extension under this section, the judge may assess compliance
with the minimization procedures by reviewing the cir-

cumstances under which information concerning United

States persons was retained or disseminated.”.

(3) EMERGENCIES.—Section 403 of the For-

gn Intelligence Surveillance Act of 1978 (50

U.S.C. 1843) is amended—

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

(B) by inserting after subsection (b) the

following:

“(c) If the Attorney General authorizes the emer-

gency installation and use of a pen register or trap and

trace device under this section, the Attorney General shall

require that the minimization procedures required by this

title for the issuance of a judicial order be followed.”.

(4) USE OF INFORMATION.—Section 405(a)(1)
of the Foreign Intelligence Surveillance Act of 1978

(50 U.S.C. 1845(a)(1)) is amended by inserting

“and the minimization procedures required to be fol-

lowed under the order authorizing the acquisition of

such information under section 402 or under sub-

section (c) of section 403 for an emergency acquisi-

tion under such section” before the period.

Section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended—

(1) by redesignating subsections (b) through (e)

as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following:

``(b) PUBLIC REPORT.—The Attorney General shall

make publicly available the portion of each report under

subsection (a) relating to paragraph (1) of such sub-

section.”; and

(3) in subsection (e), as so redesignated, by

striking “subsection (e)” and inserting “subsection

d(d)”.

SEC. 110. CHALLENGES TO NATIONWIDE ORDERS FOR ELECTRONIC EVIDENCE.

Section 2703 of title 18, United States Code, is

amended by adding at the end the following:

``(h) JUDICIAL REVIEW.—A provider of electronic

communication service or remote computing service may

challenge a subpoena, order, or warrant requiring disclo-

sure of customer communications or records under this

section in—

``(1) the United States district court for the

district in which the order was issued; or
“(2) the United States district court for the
district in which the order was served.”.

TITLE II—NATIONAL SECURITY
LETTER REFORM

SEC. 201. SHORT TITLE.

This title may be referred to as the “National Secu-
ritv Letter Reform Act of 2009”.

SEC. 202. SUNSET.

(a) IN GENERAL.—Effective on December 31, 2013,
the following provisions of law are amended to read as
such provisions read on October 25, 2001:

(1) Section 2709 of title 18, United States
Code.

(2) Section 1114(a)(5) of the Right to Finan-
cial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)).

(3) Subsections (a) and (b) of section 626 of

(4) Section 627 of the Fair Credit Reporting

(5) Section 802 of the National Security Act of

(b) TRANSITION PROVISION.—Notwithstanding sub-
section (a), the provisions of law referred to in subsection
(a), as in effect on December 30, 2013, shall continue to
apply after December 31, 2013, with respect to any par-
ticular foreign intelligence investigation or with respect to any particular offense or potential offense that began or occurred before December 31, 2013.

SEC. 203. NATIONAL SECURITY LETTER DEFINED.

In this title, the term “national security letter” means a request for information under one of the following provisions of law:

(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records).

(2) Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records).

(3) Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports).

(4) Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).


SEC. 204. MODIFICATION OF STANDARD.

A national security letter may not be issued unless the official having authority under law to issue that letter documents in a separate writing specific and articulable
facts showing that there are reasonable grounds to believe that the information sought pertains to a foreign power or an agent of a foreign power. The agency under whose authority the letter is issued shall maintain a copy of that separate writing.

SEC. 205. NOTIFICATION OF RIGHT TO JUDICIAL REVIEW OF NONDISCLOSURE ORDER.

If a recipient of a national security letter is subject to a nondisclosure requirement imposed in connection with that national security letter, the official issuing that letter shall, simultaneously with its issuance, inform the recipient of the right of the recipient to judicial review of that requirement and that the requirement will remain in effect during the pendency of any judicial review proceedings.

SEC. 206. DISCLOSURE FOR LAW ENFORCEMENT PURPOSES.

No information acquired by a national security letter shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.
SEC. 207. JUDICIAL REVIEW OF NATIONAL SECURITY LETTER NONDISCLOSURE ORDER.

Section 3511(b) of title 18, United States Code, is amended to read as follows:

“(b) NONDISCLOSURE.—

“(1) IN GENERAL.—

“(A) NOTICE.—If a recipient of a request or order for a report, records, or other information under section 2709 of this title, section 626 or 627 of the Fair Credit Reporting Act (15 U.S.C. 1681u and 1681v), section 1114 of the Right to Financial Privacy Act (12 U.S.C. 3414), or section 802 of the National Security Act of 1947 (50 U.S.C. 436), wishes to have a court review a nondisclosure requirement imposed in connection with the request, the recipient shall notify the Government.

“(B) APPLICATION.—Not later than 30 days after the date of receipt of a notification under subparagraph (A), the Government shall apply for an order prohibiting the disclosure of particular information about the existence or contents of the relevant request or order. An application under this subparagraph may be filed in the district court of the United States for any district within which the authorized in-
vestigation that is the basis for the request or order is being conducted. The applicable non-
disclosure requirement shall remain in effect during the pendency of proceedings relating to the requirement.

“(C) CONSIDERATION.—A district court of the United States that receives an application under subparagraph (B) should rule expeditiously, and may issue a nondisclosure order for a period of not longer than 180 days.

“(D) DENIAL.—If a district court of the United States rejects an application for a nondisclosure order or extension thereof, the nondisclosure requirement shall no longer be in effect.

“(2) APPLICATION CONTENTS.—An application for a nondisclosure order or extension thereof under this subsection shall include a certification from the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Department of Justice, the head or deputy head of the department, agency, or instrumentality, of the existence of
a result described in subparagraphs (A) through (D) and a statement of specific and articulable facts indicating that, absent a prohibition of disclosure under this subsection, there may result—

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

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

“(C) interference with diplomatic relations;

or

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

“(3) STANDARD.—A district court of the United States may issue a nondisclosure requirement order or extension thereof under this subsection if the court determines that there is reason to believe that disclosure of the information subject to the nondisclosure requirement during the applicable time period will have a result described in paragraph (2).

“(4) RENEWAL.—A nondisclosure order under this subsection may be renewed for additional periods of not longer than 180 days each, upon a determination by the court that a result described in paragraph (2) justifies the renewal.
“(5) EARLY TERMINATION OF NONDISCLOSURE ORDER.—A nondisclosure order the Government applied for under paragraph (1)(B) ceases to have effect when the Government discovers that the factual basis for that order has ceased to exist and the Government so informs the order’s recipient. The Government upon making such a discovery shall promptly so informs the recipient.”

SEC. 208. MINIMIZATION PROCEDURES.

The Attorney General shall establish minimization and destruction procedures to ensure that information obtained pursuant to a national security letter regarding persons that are no longer of interest in an authorized investigation is destroyed. Such procedures shall be transmitted to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate in unclassified format within 3 months of passage, and shall include—

(1) specific procedures, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning
unconsenting United States persons consistent with
the need of the United States to obtain, produce,
and disseminate foreign intelligence information;

(2) procedures that provide for the destruction
of information relating to United States persons that
do not reflect activity that would lead a reasonable
agent or analyst to believe that the person is an
agent of a foreign power as defined in section 101
of the Foreign Intelligence Surveillance Act of 1978
(50 U.S.C. 1801(b));

(3) procedures for identifying whether the infor-
mation returned in response to a national security
letter exceeds the scope of the original request and
further procedures for returning or destroying the
superfluous information as soon as possible and be-
fore it is entered into any database or used in any
way; and

(4) deadlines for destruction, minimization, or
return of information described in paragraphs (1)
through (3), that require such destruction, mini-
mization, or return as soon as possible.