

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3361, AS REPORTED BY THE COM-
MITTEE ON THE JUDICIARY AND THE PERMA-
NENT SELECT COMMITTEE ON INTELLIGENCE
OFFERED BY MR. SENSENBRENNER OF WIS-
CONSIN, MR. GOODLATTE OF VIRGINIA, MR.
CONYERS OF MICHIGAN, MR. NADLER OF
NEW YORK, AND MR. SCOTT OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “USA FREEDOM Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Additional requirements for call detail records.

Sec. 102. Emergency authority.

Sec. 103. Prohibition on bulk collection of tangible things.

Sec. 104. Judicial review of minimization procedures for the production of tan-
gible things.

Sec. 105. Liability protection.

Sec. 106. Compensation for assistance.

Sec. 107. Definitions.

Sec. 108. Inspector general reports on business records orders.

Sec. 109. Effective date.

Sec. 110. Rule of construction.

TITLE II—FISA PEN REGISTER AND TRAP AND TRACE DEVICE
REFORM

Sec. 201. Prohibition on bulk collection.

Sec. 202. Privacy procedures.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE
THE UNITED STATES REFORMS

Sec. 301. Minimization procedures.

Sec. 302. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT
REFORMS

Sec. 401. Appointment of amicus curiae.

Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

Sec. 501. Prohibition on bulk collection.

TITLE VI—FISA TRANSPARENCY AND REPORTING
REQUIREMENTS

Sec. 601. Additional reporting on orders requiring production of business records.

Sec. 602. Business records compliance reports to Congress.

Sec. 603. Annual reports by the Government on orders entered.

Sec. 604. Public reporting by persons subject to FISA orders.

Sec. 605. Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.

Sec. 606. Submission of reports under FISA.

TITLE VII—SUNSETS

Sec. 701. Sunsets.

1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE
2 SURVEILLANCE ACT OF 1978.

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to
7 a section or other provision of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

TITLE I—FISA BUSINESS RECORDS REFORMS

SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL RECORDS.

(a) APPLICATION.—Section 501(b)(2) (50 U.S.C. 1861(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “a statement” and inserting “in the case of an application other than an application described in subparagraph (C) (including an application for the production of call detail records other than in the manner described in subparagraph (C)), a statement”; and

(B) in clause (iii), by striking “; and” and inserting a semicolon;

(2) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (D), respectively; and

(3) by inserting after subparagraph (B) (as so redesignated) the following new subparagraph:

“(C) in the case of an application for the production on a daily basis of call detail records created before, on, or after the date of the application relating to an authorized investigation (other than a threat assessment) conducted in

1 accordance with subsection (a)(2) to protect
2 against international terrorism, a statement of
3 facts showing that—

4 “(i) there are reasonable grounds to
5 believe that the call detail records sought
6 to be produced based on the specific selec-
7 tion term required under subparagraph (A)
8 are relevant to such investigation; and

9 “(ii) there are facts giving rise to a
10 reasonable, articulable suspicion that such
11 specific selection term is associated with a
12 foreign power or an agent of a foreign
13 power; and”.

14 (b) ORDER.—Section 501(c)(2) (50 U.S.C.
15 1861(c)(2)) is amended—

16 (1) in subparagraph (D), by striking “; and”
17 and inserting a semicolon;

18 (2) in subparagraph (E), by striking the period
19 and inserting “; and”; and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(F) in the case of an application de-
23 scribed in subsection (b)(2)(C), shall—

1 “(i) authorize the production on a
2 daily basis of call detail records for a pe-
3 riod not to exceed 180 days;

4 “(ii) provide that an order for such
5 production may be extended upon applica-
6 tion under subsection (b) and the judicial
7 finding under paragraph (1);

8 “(iii) provide that the Government
9 may require the prompt production of call
10 detail records—

11 “(I) using the specific selection
12 term that satisfies the standard re-
13 quired under subsection (b)(2)(C)(ii)
14 as the basis for production; and

15 “(II) using call detail records
16 with a direct connection to such spe-
17 cific selection term as the basis for
18 production of a second set of call de-
19 tail records;

20 “(iv) provide that, when produced,
21 such records be in a form that will be use-
22 ful to the Government;

23 “(v) direct each person the Govern-
24 ment directs to produce call detail records
25 under the order to furnish the Government

1 forthwith all information, facilities, or
2 technical assistance necessary to accom-
3 plish the production in such a manner as
4 will protect the secrecy of the production
5 and produce a minimum of interference
6 with the services that such person is pro-
7 viding to each subject of the production;
8 and

9 “(vi) direct the Government to—

10 “(I) adopt minimization proce-
11 dures that require the prompt de-
12 struction of all call detail records pro-
13 duced under the order that the Gov-
14 ernment determines are not foreign
15 intelligence information; and

16 “(II) destroy all call detail
17 records produced under the order as
18 prescribed by such procedures.”.

19 **SEC. 102. EMERGENCY AUTHORITY.**

20 (a) **AUTHORITY.**—Section 501 (50 U.S.C. 1861) is
21 amended by adding at the end the following new sub-
22 section:

23 “(i) **EMERGENCY AUTHORITY FOR PRODUCTION OF**
24 **TANGIBLE THINGS.**—

1 “(1) Notwithstanding any other provision of
2 this section, the Attorney General may require the
3 emergency production of tangible things if the Attor-
4 ney General—

5 “(A) reasonably determines that an emer-
6 gency situation requires the production of tan-
7 gible things before an order authorizing such
8 production can with due diligence be obtained;

9 “(B) reasonably determines that the fac-
10 tual basis for the issuance of an order under
11 this section to approve such production of tan-
12 gible things exists;

13 “(C) informs, either personally or through
14 a designee, a judge having jurisdiction under
15 this section at the time the Attorney General
16 requires the emergency production of tangible
17 things that the decision has been made to em-
18 ploy the authority under this subsection; and

19 “(D) makes an application in accordance
20 with this section to a judge having jurisdiction
21 under this section as soon as practicable, but
22 not later than 7 days after the Attorney Gen-
23 eral requires the emergency production of tan-
24 gible things under this subsection.

1 “(2) If the Attorney General authorizes the
2 emergency production of tangible things under para-
3 graph (1), the Attorney General shall require that
4 the minimization procedures required by this section
5 for the issuance of a judicial order be followed.

6 “(3) In the absence of a judicial order approv-
7 ing the production of tangible things under this sub-
8 section, the production shall terminate when the in-
9 formation sought is obtained, when the application
10 for the order is denied, or after the expiration of 7
11 days from the time the Attorney General begins re-
12 quiring the emergency production of such tangible
13 things, whichever is earliest.

14 “(4) A denial of the application made under
15 this subsection may be reviewed as provided in sec-
16 tion 103.

17 “(5) If such application for approval is denied,
18 or in any other case where the production of tangible
19 things is terminated and no order is issued approv-
20 ing the production, no information obtained or evi-
21 dence derived from such production shall be received
22 in evidence or otherwise disclosed in any trial, hear-
23 ing, or other proceeding in or before any court,
24 grand jury, department, office, agency, regulatory
25 body, legislative committee, or other authority of the

1 United States, a State, or political subdivision there-
2 of, and no information concerning any United States
3 person acquired from such production shall subse-
4 quently be used or disclosed in any other manner by
5 Federal officers or employees without the consent of
6 such person, except with the approval of the Attor-
7 ney General if the information indicates a threat of
8 death or serious bodily harm to any person.

9 “(6) The Attorney General shall assess compli-
10 ance with the requirements of paragraph (5).”.

11 (b) CONFORMING AMENDMENT.—Section 501(d) (50
12 U.S.C. 1861(d)) is amended—

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph
15 (A), by striking “pursuant to an order” and in-
16 serting “pursuant to an order issued or an
17 emergency production required”;

18 (B) in subparagraph (A), by striking “such
19 order” and inserting “such order or such emer-
20 gency production”; and

21 (C) in subparagraph (B), by striking “the
22 order” and inserting “the order or the emer-
23 gency production”; and

24 (2) in paragraph (2)—

1 (A) in subparagraph (A), by striking “an
2 order” and inserting “an order or emergency
3 production”; and

4 (B) in subparagraph (B), by striking “an
5 order” and inserting “an order or emergency
6 production”.

7 **SEC. 103. PROHIBITION ON BULK COLLECTION OF TAN-**
8 **GIBLE THINGS.**

9 (a) APPLICATION.—Section 501(b)(2) (50 U.S.C.
10 1861(b)(2)), as amended by section 101(a) of this Act,
11 is further amended by inserting before subparagraph (B),
12 as redesignated by such section 101(a) of this Act, the
13 following new subparagraph:

14 “(A) a specific selection term to be used as
15 the basis for the production of the tangible
16 things sought;”.

17 (b) ORDER.—Section 501(c) (50 U.S.C. 1861(c)) is
18 amended—

19 (1) in paragraph (2)(A), by striking the semi-
20 colon and inserting “, including each specific selec-
21 tion term to be used as the basis for the produc-
22 tion;”; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(3) No order issued under this subsection may au-
2 thorize the collection of tangible things without the use
3 of a specific selection term that meets the requirements
4 of subsection (b)(2).”.

5 **SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCE-**
6 **DURES FOR THE PRODUCTION OF TANGIBLE**
7 **THINGS.**

8 Section 501(c)(1) (50 U.S.C. 1861(c)(1)) is amended
9 by inserting after “subsections (a) and (b)” the following:
10 “and that the minimization procedures submitted in ac-
11 cordance with subsection (b)(2)(D) meet the definition of
12 minimization procedures under subsection (g)”.

13 **SEC. 105. LIABILITY PROTECTION.**

14 Section 501(e) (50 U.S.C. 1861(e)) is amended to
15 read as follows:

16 “(e)(1) No cause of action shall lie in any court
17 against a person who—

18 “(A) produces tangible things or provides infor-
19 mation, facilities, or technical assistance pursuant to
20 an order issued or an emergency production required
21 under this section; or

22 “(B) otherwise provides technical assistance to
23 the Government under this section or to implement
24 the amendments made to this section by the USA
25 FREEDOM Act.

1 “(2) A production or provision of information, facili-
2 ties, or technical assistance described in paragraph (1)
3 shall not be deemed to constitute a waiver of any privilege
4 in any other proceeding or context.”.

5 **SEC. 106. COMPENSATION FOR ASSISTANCE.**

6 Section 501 (50 U.S.C. 1861), as amended by section
7 102 of this Act, is further amended by adding at the end
8 the following new subsection:

9 “(j) COMPENSATION.—The Government shall com-
10 pensate a person for reasonable expenses incurred for—

11 “(1) producing tangible things or providing in-
12 formation, facilities, or assistance in accordance with
13 an order issued with respect to an application de-
14 scribed in subsection (b)(2)(C) or an emergency pro-
15 duction under subsection (i) that, to comply with
16 subsection (i)(1)(D), requires an application de-
17 scribed in subsection (b)(2)(C); or

18 “(2) otherwise providing technical assistance to
19 the Government under this section or to implement
20 the amendments made to this section by the USA
21 FREEDOM Act.”.

22 **SEC. 107. DEFINITIONS.**

23 Section 501 (50 U.S.C. 1861), as amended by section
24 106 of this Act, is further amended by adding at the end
25 the following new subsection:

1 “(k) DEFINITIONS.—In this section:

2 “(1) CALL DETAIL RECORD.—The term ‘call de-
3 tail record’—

4 “(A) means session identifying information
5 (including originating or terminating telephone
6 number, International Mobile Subscriber Identi-
7 ty number, or International Mobile Station
8 Equipment Identity number), a telephone call-
9 ing card number, or the time or duration of a
10 call; and

11 “(B) does not include—

12 “(i) the contents of any communica-
13 tion (as defined in section 2510(8) of title
14 18, United States Code);

15 “(ii) the name, address, or financial
16 information of a subscriber or customer; or

17 “(iii) cell site location information.

18 “(2) SPECIFIC SELECTION TERM.—The term
19 ‘specific selection term’ means a discrete term, such
20 as a term specifically identifying a person, entity, ac-
21 count, address, or device, used by the Government to
22 limit the scope of the information or tangible things
23 sought pursuant to the statute authorizing the provi-
24 sion of such information or tangible things to the
25 Government.”.

1 **SEC. 108. INSPECTOR GENERAL REPORTS ON BUSINESS**
2 **RECORDS ORDERS.**

3 Section 106A of the USA PATRIOT Improvement
4 and Reauthorization Act of 2005 (Public Law 109–177;
5 120 Stat. 200) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by inserting “and
8 calendar years 2012 through 2014” after
9 “2006”;

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

11 (C) by redesignating paragraphs (4) and
12 (5) as paragraphs (2) and (3), respectively; and

13 (D) in paragraph (3) (as so redesign-
14 nated)—

15 (i) by striking subparagraph (C) and
16 inserting the following new subparagraph:

17 “(C) with respect to calendar years 2012
18 through 2014, an examination of the minimiza-
19 tion procedures used in relation to orders under
20 section 501 of the Foreign Intelligence Surveil-
21 lance Act of 1978 (50 U.S.C. 1861) and wheth-
22 er the minimization procedures adequately pro-
23 tect the constitutional rights of United States
24 persons;” and

25 (ii) in subparagraph (D), by striking
26 “(as such term is defined in section 3(4) of

1 the National Security Act of 1947 (50
2 U.S.C. 401a(4)))”;

3 (2) in subsection (c), by adding at the end the
4 following new paragraph:

5 “(3) CALENDAR YEARS 2012 THROUGH
6 2014.—Not later than December 31, 2015, the In-
7 spector General of the Department of Justice shall
8 submit to the Committee on the Judiciary and the
9 Select Committee on Intelligence of the Senate and
10 the Committee on the Judiciary and the Permanent
11 Select Committee on Intelligence of the House of
12 Representatives a report containing the results of
13 the audit conducted under subsection (a) for cal-
14 endar years 2012 through 2014.”;

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

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

19 “(d) INTELLIGENCE ASSESSMENT.—

20 “(1) IN GENERAL.—For the period beginning
21 on January 1, 2012, and ending on December 31,
22 2014, the Inspector General of the Intelligence Com-
23 munity shall assess—

24 “(A) the importance of the information ac-
25 quired under title V of the Foreign Intelligence

1 Surveillance Act of 1978 (50 U.S.C. 1861 et
2 seq.) to the activities of the intelligence commu-
3 nity;

4 “(B) the manner in which that information
5 was collected, retained, analyzed, and dissemi-
6 nated by the intelligence community;

7 “(C) the minimization procedures used by
8 elements of the intelligence community under
9 such title and whether the minimization proce-
10 dures adequately protect the constitutional
11 rights of United States persons; and

12 “(D) any minimization procedures pro-
13 posed by an element of the intelligence commu-
14 nity under such title that were modified or de-
15 nied by the court established under section
16 103(a) of such Act (50 U.S.C. 1803(a)).

17 “(2) SUBMISSION DATE FOR ASSESSMENT.—
18 Not later than 180 days after the date on which the
19 Inspector General of the Department of Justice sub-
20 mits the report required under subsection (c)(3), the
21 Inspector General of the Intelligence Community
22 shall submit to the Committee on the Judiciary and
23 the Select Committee on Intelligence of the Senate
24 and the Committee on the Judiciary and the Perma-
25 nent Select Committee on Intelligence of the House

1 of Representatives a report containing the results of
2 the assessment for calendar years 2012 through
3 2014.”;

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

6 (A) in paragraph (1)—

7 (i) by striking “a report under sub-
8 section (c)(1) or (c)(2)” and inserting “any
9 report under subsection (c) or (d)”; and

10 (ii) by striking “Inspector General of
11 the Department of Justice” and inserting
12 “Inspector General of the Department of
13 Justice, the Inspector General of the Intel-
14 ligence Community, and any Inspector
15 General of an element of the intelligence
16 community that prepares a report to assist
17 the Inspector General of the Department
18 of Justice or the Inspector General of the
19 Intelligence Community in complying with
20 the requirements of this section”; and

21 (B) in paragraph (2), by striking “the re-
22 ports submitted under subsections (c)(1) and
23 (c)(2)” and inserting “any report submitted
24 under subsection (c) or (d)”;

1 (6) in subsection (f), as redesignated by para-
2 graph (3)—

3 (A) by striking “The reports submitted
4 under subsections (c)(1) and (c)(2)” and insert-
5 ing “Each report submitted under subsection
6 (c)”; and

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

9 (7) by adding at the end the following new sub-
10 section:

11 “(g) DEFINITIONS.—In this section:

12 “(1) INTELLIGENCE COMMUNITY.—The term
13 ‘intelligence community’ has the meaning given that
14 term in section 3 of the National Security Act of
15 1947 (50 U.S.C. 3003).

16 “(2) UNITED STATES PERSON.—The term
17 ‘United States person’ has the meaning given that
18 term in section 101 of the Foreign Intelligence Sur-
19 veillance Act of 1978 (50 U.S.C. 1801).”.

20 **SEC. 109. EFFECTIVE DATE.**

21 (a) IN GENERAL.—The amendments made by sec-
22 tions 101 through 103 shall take effect on the date that
23 is 180 days after the date of the enactment of this Act.

24 (b) RULE OF CONSTRUCTION.—Nothing in this Act
25 shall be construed to alter or eliminate the authority of

1 the Government to obtain an order under title V of the
2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1861 et seq.) as in effect prior to the effective date de-
4 scribed in subsection (a) during the period ending on such
5 effective date.

6 **SEC. 110. RULE OF CONSTRUCTION.**

7 Nothing in this Act shall be construed to authorize
8 the production of the contents (as such term is defined
9 in section 2510(8) of title 18, United States Code) of any
10 electronic communication from an electronic communica-
11 tion service provider (as such term is defined in section
12 701(b)(4) of the Foreign Intelligence Surveillance Act of
13 1978 (50 U.S.C. 1881(b)(4)) under title V of the Foreign
14 Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et
15 seq.).

16 **TITLE II—FISA PEN REGISTER**
17 **AND TRAP AND TRACE DE-**
18 **VICE REFORM**

19 **SEC. 201. PROHIBITION ON BULK COLLECTION.**

20 (a) PROHIBITION.—Section 402(c) (50 U.S.C.
21 1842(c)) is amended—

22 (1) in paragraph (1), by striking “; and” and
23 inserting a semicolon;

24 (2) in paragraph (2), by striking the period and
25 inserting a semicolon; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(3) a specific selection term to be used as the
4 basis for selecting the telephone line or other facility
5 to which the pen register or trap and trace device
6 is to be attached or applied; and”.

7 (b) DEFINITION.—Section 401 (50 U.S.C. 1841) is
8 amended by adding at the end the following new para-
9 graph:

10 “(4) The term ‘specific selection term’ has the
11 meaning given the term in section 501.”.

12 **SEC. 202. PRIVACY PROCEDURES.**

13 (a) IN GENERAL.—Section 402 (50 U.S.C. 1842) is
14 amended by adding at the end the following new sub-
15 section:

16 “(h) The Attorney General shall ensure that appro-
17 priate policies and procedures are in place to safeguard
18 nonpublicly available information concerning United
19 States persons that is collected through the use of a pen
20 register or trap and trace device installed under this sec-
21 tion. Such policies and procedures shall, to the maximum
22 extent practicable and consistent with the need to protect
23 national security, include protections for the collection, re-
24 tention, and use of information concerning United States
25 persons.”.

(b) EMERGENCY AUTHORITY.—Section 403 (50 U.S.C. 1843) is amended by adding at the end the following new subsection:

“(d) Information collected through the use of a pen register or trap and device installed under this section shall be subject to the policies and procedures required under section 402(h).”.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUT- SIDE THE UNITED STATES RE- FORMS

SEC. 301. MINIMIZATION PROCEDURES.

Section 702(e)(1) (50 U.S.C. 1881a(e)(1)) is amended—

(1) by striking “that meet” and inserting the following: “that—

“(A) meet”;

(2) in subparagraph (A) (as designated by paragraph (1) of this section), by striking the period and inserting “; and”; and

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

“(B) consistent with such definition—

“(i) minimize the acquisition, and prohibit the retention and dissemination, of

1 any communication as to which the sender
2 and all intended recipients are determined
3 to be located in the United States at the
4 time of acquisition, consistent with the
5 need of the United States to obtain,
6 produce, and disseminate foreign intel-
7 ligence information; and

8 “(ii) prohibit the use of any discrete
9 communication that is not to, from, or
10 about the target of an acquisition and is to
11 or from an identifiable United States per-
12 son or a person reasonably believed to be
13 located in the United States, except to pro-
14 tect against an immediate threat to human
15 life.”.

16 **SEC. 302. LIMITS ON USE OF UNLAWFULLY OBTAINED IN-**
17 **FORMATION.**

18 Section 702(i)(3) (50 U.S.C. 1881a(i)(3)) is amended
19 by adding at the end the following new subparagraph:

20 “(D) LIMITATION ON USE OF INFORMA-
21 TION.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), to the extent the Court
24 orders a correction of a deficiency in a cer-
25 tification or procedures under subpara-

graph (B), no information obtained or evidence derived pursuant to the part of the certification or procedures that has been identified by the Court as deficient concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired pursuant to such part of such certification shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of the United States person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

“(ii) EXCEPTION.—If the Government corrects any deficiency identified by the order of the Court under subparagraph (B), the Court may permit the use or dis-

1 closure of information obtained before the
2 date of the correction under such mini-
3 mization procedures as the Court shall es-
4 tablish for purposes of this clause.”.

5 **TITLE IV—FOREIGN INTEL-**
6 **LIGENCE SURVEILLANCE**
7 **COURT REFORMS**

8 **SEC. 401. APPOINTMENT OF AMICUS CURIAE.**

9 Section 103 (50 U.S.C. 1803) is amended by adding
10 at the end the following new subsection:

11 “(i) AMICUS CURIAE.—

12 “(1) AUTHORIZATION.—A court established
13 under subsection (a) or (b), consistent with the re-
14 quirement of subsection (c) and any other statutory
15 requirement that the court act expeditiously or with-
16 in a stated time—

17 “(A) shall appoint an individual to serve as
18 amicus curiae to assist such court in the consid-
19 eration of any application for an order or review
20 that, in the opinion of the court, presents a
21 novel or significant interpretation of the law,
22 unless the court issues a written finding that
23 such appointment is not appropriate; and

1 “(B) may appoint an individual to serve as
2 amicus curiae in any other instance as such
3 court deems appropriate.

4 “(2) DESIGNATION.—The presiding judges of
5 the courts established under subsections (a) and (b)
6 shall jointly designate not less than 5 individuals to
7 be eligible to serve as amicus curiae. Such individ-
8 uals shall be persons who possess expertise in pri-
9 vacy and civil liberties, intelligence collection, tele-
10 communications, or any other area that may lend
11 legal or technical expertise to the courts and who
12 have been determined by appropriate executive
13 branch officials to be eligible for access to classified
14 information.

15 “(3) DUTIES.—An individual appointed to serve
16 as amicus curiae under paragraph (1) shall carry
17 out the duties assigned by the appointing court.
18 Such court may authorize the individual appointed
19 to serve as amicus curiae to review any application,
20 certification, petition, motion, or other submission
21 that the court determines is relevant to the duties
22 assigned by the court.

23 “(4) NOTIFICATION.—The presiding judges of
24 the courts established under subsections (a) and (b)
25 shall notify the Attorney General of each exercise of

1 the authority to appoint an individual to serve as
2 amicus curiae under paragraph (1).

3 “(5) ASSISTANCE.—A court established under
4 subsection (a) or (b) may request and receive (in-
5 cluding on a non-reimbursable basis) the assistance
6 of the executive branch in the implementation of this
7 subsection.

8 “(6) ADMINISTRATION.—A court established
9 under subsection (a) or (b) may provide for the des-
10 ignation, appointment, removal, training, or other
11 support for an individual appointed to serve as ami-
12 cus curiae under paragraph (1) in a manner that is
13 not inconsistent with this subsection.”.

14 **SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND**
15 **OPINIONS.**

16 (a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871
17 et seq.) is amended—

18 (1) in the heading, by striking “**REPORT-**
19 **ING REQUIREMENT**” and inserting “**OVER-**
20 **SIGHT**”; and

21 (2) by adding at the end the following new sec-
22 tion:

1 **“SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS,**
2 **ORDERS, AND OPINIONS.**

3 “(a) DECLASSIFICATION REQUIRED.—Subject to
4 subsection (b), the Director of National Intelligence, in
5 consultation with the Attorney General, shall conduct a
6 declassification review of each decision, order, or opinion
7 issued by the Foreign Intelligence Surveillance Court or
8 the Foreign Intelligence Surveillance Court of Review (as
9 defined in section 601(e)) that includes a significant con-
10 struction or interpretation of any provision of this Act,
11 including a construction or interpretation of the term ‘spe-
12 cific selection term’, and, consistent with that review,
13 make publicly available to the greatest extent practicable
14 each such decision, order, or opinion.

15 “(b) REDACTED FORM.—The Director of National
16 Intelligence, in consultation with the Attorney General,
17 may satisfy the requirement under subsection (a) to make
18 a decision, order, or opinion described in such subsection
19 publicly available to the greatest extent practicable by
20 making such decision, order, or opinion publicly available
21 in redacted form.

22 “(c) NATIONAL SECURITY WAIVER.—The Director of
23 National Intelligence, in consultation with the Attorney
24 General, may waive the requirement to declassify and
25 make publicly available a particular decision, order, or
26 opinion under subsection (a) if—

1 “(1) the Director of National Intelligence, in
2 consultation with the Attorney General, determines
3 that a waiver of such requirement is necessary to
4 protect the national security of the United States or
5 properly classified intelligence sources or methods;
6 and

7 “(2) the Director of National Intelligence
8 makes publicly available an unclassified statement
9 prepared by the Attorney General, in consultation
10 with the Director of National Intelligence—

11 “(A) summarizing the significant construc-
12 tion or interpretation of a provision under this
13 Act; and

14 “(B) that specifies that the statement has
15 been prepared by the Attorney General and
16 constitutes no part of the opinion of the For-
17 eign Intelligence Surveillance Court or the For-
18 eign Intelligence Surveillance Court of Re-
19 view.”.

20 (b) TABLE OF CONTENTS AMENDMENTS.—The table
21 of contents in the first section is amended—

22 (1) by striking the item relating to title VI and
23 inserting the following new item:

“TITLE VI—OVERSIGHT”; AND

1 (2) by inserting after the item relating to sec-
2 tion 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

3 **TITLE V—NATIONAL SECURITY**
4 **LETTER REFORM**

5 **SEC. 501. PROHIBITION ON BULK COLLECTION.**

6 (a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE
7 TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b)
8 of title 18, United States Code, is amended in the matter
9 preceding paragraph (1) by striking “may” and inserting
10 “may, using a specific selection term as the basis for a
11 request”.

12 (b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN
13 INTELLIGENCE AND PROTECTIVE PURPOSES.—Section
14 1114(a)(2) of the Right to Financial Privacy Act of 1978
15 (12 U.S.C. 3414(a)(2)) is amended by striking the period
16 and inserting “and a specific selection term to be used
17 as the basis for the production and disclosure of financial
18 records.”.

19 (c) DISCLOSURES TO FBI OF CERTAIN CONSUMER
20 RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Sec-
21 tion 626(a) of the Fair Credit Reporting Act (15 U.S.C.
22 1681u(a)) is amended by striking “that information,” and
23 inserting “that information that includes a specific selec-
24 tion term to be used as the basis for the production of
25 that information,”.

1 (d) DISCLOSURES TO GOVERNMENTAL AGENCIES
2 FOR COUNTERTERRORISM PURPOSES OF CONSUMER RE-
3 PORTS.—Section 627(a) of the Fair Credit Reporting Act
4 (15 U.S.C. 1681v(a)) is amended by striking “analysis.”
5 and inserting “analysis and a specific selection term to
6 be used as the basis for the production of such informa-
7 tion.”.

8 (e) DEFINITIONS.—

9 (1) COUNTERINTELLIGENCE ACCESS TO TELE-
10 PHONE TOLL AND TRANSACTIONAL RECORDS.—Sec-
11 tion 2709 of title 18, United States Code, is amend-
12 ed by adding at the end the following new sub-
13 section:

14 “(g) SPECIFIC SELECTION TERM DEFINED.—In this
15 section, the term ‘specific selection term’ has the meaning
16 given the term in section 501 of the Foreign Intelligence
17 Surveillance Act of 1978 (50 U.S.C. 1861).”.

18 (2) ACCESS TO FINANCIAL RECORDS FOR CER-
19 TAIN INTELLIGENCE AND PROTECTIVE PURPOSES.—
20 Section 1114 of the Right to Financial Privacy Act
21 of 1978 (12 U.S.C. 3414) is amended by adding at
22 the end the following new subsection:

23 “(e) In this section, the term ‘specific selection term’
24 has the meaning given the term in section 501 of the For-

1 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
2 1861).”.

3 (3) DISCLOSURES TO FBI OF CERTAIN CON-
4 SUMER RECORDS FOR COUNTERINTELLIGENCE PUR-
5 POSES.—Section 626 of the Fair Credit Reporting
6 Act (15 U.S.C. 1681u) is amended by adding at the
7 end the following new subsection:

8 “(n) SPECIFIC SELECTION TERM DEFINED.—In this
9 section, the term ‘specific selection term’ has the meaning
10 given the term in section 501 of the Foreign Intelligence
11 Surveillance Act of 1978 (50 U.S.C. 1861).”.

12 (4) DISCLOSURES TO GOVERNMENTAL AGEN-
13 CIES FOR COUNTERTERRORISM PURPOSES OF CON-
14 SUMER REPORTS.—Section 627 of the Fair Credit
15 Reporting Act (15 U.S.C. 1681v) is amended by
16 adding at the end the following new subsection:

17 “(g) SPECIFIC SELECTION TERM DEFINED.—In this
18 section, the term ‘specific selection term’ has the meaning
19 given the term in section 501 of the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C. 1861).”.

1 **TITLE VI—FISA TRANSPARENCY**
2 **AND REPORTING REQUIRE-**
3 **MENTS**

4 **SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING**
5 **PRODUCTION OF BUSINESS RECORDS.**

6 Section 502(b) (50 U.S.C. 1862(b)) is amended—

7 (1) by redesignating paragraphs (1), (2), and
8 (3) as paragraphs (5), (6), and (7), respectively; and

9 (2) by inserting before paragraph (5) (as so re-
10 designated) the following new paragraphs:

11 “(1) the total number of applications described
12 in section 501(b)(2)(B) made for orders approving
13 requests for the production of tangible things;

14 “(2) the total number of such orders either
15 granted, modified, or denied;

16 “(3) the total number of applications described
17 in section 501(b)(2)(C) made for orders approving
18 requests for the production of call detail records;

19 “(4) the total number of such orders either
20 granted, modified, or denied;”.

21 **SEC. 602. BUSINESS RECORDS COMPLIANCE REPORTS TO**
22 **CONGRESS.**

23 Section 502(b) (50 U.S.C. 1862(b)), as amended by
24 section 601 of this Act, is further amended—

1 (1) by redesignating paragraphs (1) through
2 (7) as paragraphs (2) through (8), respectively; and

3 (2) by inserting before paragraph (2) (as so re-
4 designated) the following new paragraph:

5 “(1) a summary of all compliance reviews con-
6 ducted by the Federal Government of the production
7 of tangible things under section 501;”.

8 **SEC. 603. ANNUAL REPORTS BY THE GOVERNMENT ON OR-**
9 **DERS ENTERED.**

10 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
11 as amended by section 402 of this Act, is further amended
12 by adding at the end the following new section:

13 **“SEC. 603. ANNUAL REPORT ON ORDERS ENTERED.**

14 “(a) REPORT BY DIRECTOR OF THE ADMINISTRA-
15 TIVE OFFICE OF THE UNITED STATES COURTS.—The Di-
16 rector of the Administrative Office of the United States
17 Courts shall annually submit to the Permanent Select
18 Committee on Intelligence and the Committee on the Judi-
19 ciary of the House of Representatives and the Select Com-
20 mittee on Intelligence and the Committee on the Judiciary
21 of the Senate and, subject to a declassification review by
22 the Attorney General and Director of National Intel-
23 ligence, make publicly available on an Internet website—

24 “(1) the number of orders entered under each
25 of sections 105, 304, 402, 501, 702, 703, and 704;

1 “(2) the number of orders modified under each
2 of those sections;

3 “(3) the number of orders denied under each of
4 those sections; and

5 “(4) the number of appointments of an indi-
6 vidual to serve as amicus curiae under section 103,
7 including the name of each individual appointed to
8 serve as amicus curiae.

9 “(b) REPORT BY DIRECTOR OF NATIONAL INTEL-
10 LIGENCE.—The Director of National Intelligence shall an-
11 nually make publicly available a report that identifies, for
12 the preceding 12-month period—

13 “(1) the total number of orders issued pursuant
14 titles I and III and sections 703 and 704 and the
15 estimated number of targets affected by such orders;

16 “(2) the total number of orders issued pursuant
17 to section 702 and the estimated number of targets
18 affected by such orders;

19 “(3) the total number of orders issued pursuant
20 to title IV and the estimated number of targets af-
21 fected by such orders;

22 “(4) the total number of orders issued pursuant
23 to applications made under section 501(b)(2)(B) and
24 the estimated number of targets affected by such or-
25 ders;

1 “(5) the total number of orders issued pursuant
2 to applications made under section 501(b)(2)(C) and
3 the estimated number of targets affected by such or-
4 ders; and

5 “(6) the total number of national Security let-
6 ters issued and the number of requests for informa-
7 tion contained within such national security letters.

8 “(c) NATIONAL SECURITY LETTER DEFINED.—The
9 term ‘national security letter’ means any of the following
10 provisions:

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

13 “(2) Section 1114(a)(5)(A) of the Right to Fi-
14 nancial Privacy Act of 1978 (12 U.S.C.
15 3414(a)(5)(A)).

16 “(3) Subsection (a) or (b) of section 626 of the
17 Fair Credit Reporting Act (15 U.S.C. 1681u(a),
18 1681u(b)).

19 “(4) Section 627(a) of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681v(a)).”.

21 (b) TABLE OF CONTENTS AMENDMENT.—The table
22 of contents in the first section, as amended by section 402
23 of this Act, is further amended by inserting after the item
24 relating to section 602, as added by such section 402, the
25 following new item:

“Sec. 603. Annual report on orders entered.”.

1 **SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**
2 **FISA ORDERS.**

3 (a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
4 as amended by section 603 of this Act, is further amended
5 by adding at the end the following new section:

6 **“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO**
7 **ORDERS.**

8 “(a) REPORTING.—A person may semiannually pub-
9 licly report the following information with respect to the
10 preceding half year using one of the following structures:

11 “(1) Subject to subsection (b), a report that ag-
12 gregates the number of orders or national security
13 letters the person was required to comply with in the
14 following separate categories:

15 “(A) The number of national security let-
16 ters received, reported in bands of 1000 start-
17 ing with 0-999.

18 “(B) The number of customer accounts af-
19 fected by national security letters, reported in
20 bands of 1000 starting with 0-999.

21 “(C) The number of orders under this Act
22 for content, reported in bands of 1000 starting
23 with 0-999.

24 “(D) With respect to content orders under
25 this Act, in bands of 1000 starting with 0-999,

1 the number of customer accounts affected
2 under orders under title I;

3 “(E) The number of orders under this Act
4 for non-content, reported in bands of 1000
5 starting with 0-999.

6 “(F) With respect to non-content orders
7 under this Act, in bands of 1000 starting with
8 0-999, the number of customer accounts af-
9 fected under orders under—

10 “(i) title IV;

11 “(ii) title V with respect to applica-
12 tions described in section 501(b)(2)(B);
13 and

14 “(iii) title V with respect to applica-
15 tions described in section 501(b)(2)(C).

16 “(2) A report that aggregates the number of or-
17 ders, directives, or national security letters the per-
18 son was required to comply with in the following
19 separate categories:

20 “(A) The total number of all national secu-
21 rity process received, including all national se-
22 curity letters and orders or directives under this
23 Act, reported as a single number in a band of
24 0-249 and thereafter in bands of 250.

1 “(B) The total number of customer selec-
2 tors targeted under all national security process
3 received, including all national security letters
4 and orders or directives under this Act, re-
5 ported as a single number in a band of 0-249
6 and thereafter in bands of 250.

7 “(3) Subject to subsection (b), a report that ag-
8 gregates the number of orders or national security
9 letters the person was required to comply with in the
10 following separate categories:

11 “(A) The number of national security let-
12 ters received, reported in bands of 500 starting
13 with 0-499.

14 “(B) The number of customer accounts af-
15 fected by national security letters, reported in
16 bands of 500 starting with 0-499.

17 “(C) The number of orders under this Act
18 for content, reported in bands of 500 starting
19 with 0-499.

20 “(D) The number of customer selectors
21 targeted under such orders, in bands of 500
22 starting with 0-499.

23 “(E) The number of orders under this Act
24 for non-content, reported in bands of 500 start-
25 ing with 0-499.

1 “(F) The number of customer selectors
2 targeted under such orders, reported in bands
3 of 500 starting with 0-499.

4 “(b) PERIOD OF TIME COVERED BY REPORTS.—
5 With respect to a report described in paragraph (1) or
6 (3) of subsection (a), such report shall only include infor-
7 mation—

8 “(1) except as provided in paragraph (2), for
9 the period of time ending on the date that is at least
10 180 days before the date of the publication of such
11 report; and

12 “(2) with respect to an order under this Act or
13 national security letter received with respect to a
14 platform, product, or service for which a person did
15 not previously receive such an order or national se-
16 curity letter (not including an enhancement to or
17 iteration of an existing publicly available platform,
18 product, or service), for the period of time ending on
19 the date that is at least 2 years before the date of
20 the publication of such report.

21 “(c) OTHER FORMS OF AGREED TO PUBLICATION.—
22 Nothing in this section shall be construed to prohibit the
23 Government and any person from jointly agreeing to the
24 publication of information referred to in this subsection

1 in a time, form, or manner other than as described in this
2 section.

3 “(d) NATIONAL SECURITY LETTER DEFINED.—The
4 term ‘national security letter’ has the meaning given the
5 term in section 603.”.

6 (b) TABLE OF CONTENTS AMENDMENT.—The table
7 of contents in the first section, as amended by section 603
8 of this Act, is further amended by inserting after the item
9 relating to section 603, as added by section 603 of this
10 Act, the following new item:

“Sec. 604. Public reporting by persons subject to orders.”.

11 **SEC. 605. REPORTING REQUIREMENTS FOR DECISIONS OF**
12 **THE FOREIGN INTELLIGENCE SURVEIL-**
13 **LANCE COURT.**

14 Section 601(c)(1) (50 U.S.C. 1871(c)) is amended to
15 read as follows:

16 “(1) not later than 45 days after the date on
17 which the Foreign Intelligence Surveillance Court or
18 the Foreign Intelligence Surveillance Court of Re-
19 view issues a decision, order, or opinion, including
20 any denial or modification of an application under
21 this Act, that includes a significant construction or
22 interpretation of any provision of this Act or results
23 in a change of application of any provision of this
24 Act or a new application of any provision of this Act,
25 a copy of such decision, order, or opinion and any

1 pleadings, applications, or memoranda of law associ-
2 ated with such decision, order, or opinion; and”.

3 **SEC. 606. SUBMISSION OF REPORTS UNDER FISA.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 108(a)(1)
5 (50 U.S.C. 1808(a)(1)) is amended by striking “the
6 House Permanent Select Committee on Intelligence and
7 the Senate Select Committee on Intelligence, and the
8 Committee on the Judiciary of the Senate,” and inserting
9 “the Permanent Select Committee on Intelligence and the
10 Committee on the Judiciary of the House of Representa-
11 tives and the Select Committee on Intelligence and the
12 Committee on the Judiciary of the Senate”.

13 (b) **PHYSICAL SEARCHES.**—Section 306 (50 U.S.C.
14 1826) is amended—

15 (1) in the first sentence, by striking “Perma-
16 nent Select Committee on Intelligence of the House
17 of Representatives and the Select Committee on In-
18 telligence of the Senate, and the Committee on the
19 Judiciary of the Senate,” and inserting “Permanent
20 Select Committee on Intelligence and the Committee
21 on the Judiciary of the House of Representatives
22 and the Select Committee on Intelligence and the
23 Committee on the Judiciary of the Senate”; and

1 (2) in the second sentence, by striking “and the
2 Committee on the Judiciary of the House of Rep-
3 resentatives”.

4 (c) PEN REGISTER AND TRAP AND TRACE DE-
5 VICES.—Section 406(b) (50 U.S.C. 1846(b)) is amend-
6 ed—

7 (1) in paragraph (2), by striking “; and” and
8 inserting a semicolon;

9 (2) in paragraph (3), by striking the period and
10 inserting a semicolon; and

11 (3) by adding at the end the following new
12 paragraphs:

13 “(4) each department or agency on behalf of
14 which the Government has made application for or-
15 ders approving the use of pen registers or trap and
16 trace devices under this title; and

17 “(5) for each department or agency described in
18 paragraph (4), a breakdown of the numbers required
19 by paragraphs (1), (2), and (3).”.

20 (d) ACCESS TO CERTAIN BUSINESS RECORDS AND
21 OTHER TANGIBLE THINGS.—Section 502(a) (50 U.S.C.
22 1862(a)) is amended by striking “Permanent Select Com-
23 mittee on Intelligence of the House of Representatives and
24 the Select Committee on Intelligence and the Committee
25 on the Judiciary of the Senate” and inserting “Permanent

1 Select Committee on Intelligence of the House of Rep-
2 resentatives, the Select Committee on Intelligence of the
3 Senate, and the Committees on the Judiciary of the House
4 of Representatives and the Senate”.

5 **TITLE VII—SUNSETS**

6 **SEC. 701. SUNSETS.**

7 (a) USA PATRIOT IMPROVEMENT AND REAUTHOR-
8 IZATION ACT OF 2005.—Section 102(b)(1) of the USA
9 PATRIOT Improvement and Reauthorization Act of 2005
10 (50 U.S.C. 1805 note) is amended by striking “June 1,
11 2015” and inserting “December 31, 2017”.

12 (b) INTELLIGENCE REFORM AND TERRORISM PRE-
13 VENTION ACT OF 2004.—Section 6001(b)(1) of the Intel-
14 ligence Reform and Terrorism Prevention Act of 2004 (50
15 U.S.C. 1801 note) is amended by striking “June 1, 2015”
16 and inserting “December 31, 2017”.

