Purpose: To improve national security letters, the authorities under the Foreign Intelligence Surveillance Act of 1978, and for other purposes.


S. 1038

To extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

Referred to the Committee on ________________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 At the end, add the following:

2 SEC. 3. ADDITIONAL SUNSETS.

3 (a) NATIONAL SECURITY LETTERS.—

4 (1) REPEAL.—Effective on December 31, 2013—

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

6 (B) section 1114(a)(5) of the Right to Financial Privacy Act of 1978 (12 U.S.C.
3414(a)(5)) is amended to read as such provision read on October 25, 2001;

(C) subsections (a) and (b) of section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) are amended to read as subsections (a) and (b), respectively, of the second of the 2 sections designated as section 624 of such Act (15 U.S.C. 1681u) (relating to disclosure to the Federal Bureau of Investigation for counterintelligence purposes), as added by section 601 of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974), read on October 25, 2001;

(D) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is repealed; and

(E) section 802 of the National Security Act of 1947 (50 U.S.C. 436) is amended to read as such provision read on October 25, 2001.

(2) TRANSITION PROVISION.—Notwithstanding paragraph (1), the provisions of law referred to in paragraph (1), as in effect on December 30, 2013, shall continue to apply on and after December 31, 2013, with respect to any particular foreign intelligence investigation or with respect to any par-
ticular offense or potential offense that began or oc-
curred before December 31, 2013.

(3) TECHNICAL AND CONFORMING AMEND-
MENTS.—Effective December 31, 2013—

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

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

(ii) in subsection (b)(1)(A), as amend-
ed by section 7(b) of this Act, by striking
“section 626 or 627 of the Fair Credit Re-
porting Act (15 U.S.C. 1681u and 1681v)”
and inserting “section 626 of the Fair
Credit Reporting Act (15 U.S.C. 1681u)”;

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

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

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

(iii) by striking subparagraph (E);
(C) the table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by striking the item relating to section 627.

(b) FISA Amendments Act of 2008.—


(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 403(b)(2) of such Act (Public Law 110–261; 122 Stat. 2474) is amended by striking “December 31, 2012” and inserting “December 31, 2013”.

(3) ORDERS IN EFFECT.—Section 404(b)(1) of such Act (Public Law 110–261; 50 U.S.C. 1801 note) is amended in the heading by striking “December 31, 2012” and inserting “December 31, 2013”.

SEC. 4. ORDERS FOR ACCESS TO CERTAIN BUSINESS RECORDS AND TANGIBLE THINGS.

(a) IN GENERAL.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—
(1) in the section heading, by inserting “AND OTHER TANGIBLE THINGS” after “CERTAIN BUSINESS RECORDS”;

(2) in subsection (b)(2)—

(A) in subparagraph (A)—

(i) by striking “a statement of facts showing” and inserting “a statement of the facts and circumstances relied upon by the applicant to justify the belief of the applicant”; and

(ii) by striking “clandestine intelligence activities,” and all that follows and inserting “clandestine intelligence activities;”; and

(B) by striking subparagraph (B) and inserting the following:

“(B) if the records sought contain bookseller records, or are from a library and contain personally identifiable information about a patron of the library, a statement of facts showing that there are reasonable grounds to believe that the records sought—

“(i) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with sub-
section (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

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

“(II) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

“(III) pertain to an individual in contact with, or known to, a suspected agent of a foreign power; and

“(C) a statement of proposed minimization procedures.”;

(3) in subsection (c)(1)—

(A) by inserting “and that the proposed minimization procedures meet the definition of minimization procedures under subsection (g)” after “subsections (a) and (b)”;

(B) by inserting “, and directing that the minimization procedures be followed” after “release of tangible things”; and

(C) by striking the second sentence; and
(4) by adding at the end the following:

“(i) DEFINITIONS.—In this section—

“(1) the term ‘bookseller records’ means trans-
actional records reflecting the purchase (including
subscription purchase) or rental of books, journals,
or magazines, whether in digital form or in print, of
an individual or entity engaged in the sale or rental
of books, journals, or magazines;

“(2) the term ‘library’ has the meaning given
that term in section 213(1) of the Library Services
and Technology Act (20 U.S.C. 9122(1));

“(3) the term ‘patron’ means a purchaser,
renter, borrower, user, or subscriber of goods or
services from a library; and

“(4) the term ‘personally identifiable informa-
tion’ includes information that identifies a person as
having used, requested, or obtained specific reading
materials or services from a library.”.

(b) TRANSITION PROCEDURES.—Notwithstanding
the amendments made by this Act, an order entered under
section 501(c)(1) of the Foreign Intelligence Surveillance
Act of 1978 (50 U.S.C. 1861(c)(1)) that is in effect on
the effective date of the amendments made by this section
shall remain in effect until the expiration of the order.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—
(1) DEFINITIONS.—Title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is amended by adding at the end the following:

"SEC. 503. DEFINITIONS.

"In this title, the terms ‘Attorney General’, ‘foreign intelligence information’, ‘international terrorism’, ‘person’, ‘United States’, and ‘United States person’ have the meanings given such terms in section 101."

(2) 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 inserting “AND OTHER TANGIBLE THINGS” after “CERTAIN BUSINESS RECORDS”.

(3) 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—

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

"TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS AND OTHER TANGIBLE THINGS FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 501. Access to certain business records and other tangible things for foreign intelligence purposes and international terrorism investigations.”;

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

“Sec. 503. Definitions.”.

SEC. 5. 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 facts and circumstances 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 whether minimization procedures are being proposed and, if so, a statement of the proposed minimization procedures.”.

(b) MINIMIZATION.—

(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 follow-

“(4) The term ‘minimization procedures’

means—

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

“(B) procedures that require that nonpub-
licly available information, which is not foreign
intelligence information shall not be dissemi-
nated in a manner that identifies any United
States person, without such person’s consent,
unless such person’s identity is necessary to un-
derstand foreign intelligence information or as-

“(C) notwithstanding subparagraphs (A)
and (B), procedures that allow for the retention
and dissemination of information that is evi-
dence 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)(1), by striking “the judge finds” and all that follows and inserting the following: “the judge finds—

“(A) that the application satisfies the requirements of this section; and

“(B) that, if there are exceptional circumstances justifying the use of minimization procedures in a particular case, the proposed minimization procedures meet the definition of minimization procedures under this title.”; 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 any applicable minimization procedures by reviewing
the circumstances under which information concerning
United States persons was retained or disseminated.”.

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

eign Intelligence Surveillance Act of 1978 (50
U.S.C. 1843) is amended—

(A) by redesignating subsection (c) as sub-

section (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 minimization procedures be followed, if appro-
priate.”.

(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 striking “pro-
visions of this section” and inserting “minimization
procedures required under this title”.

(c) TRANSITION PROCEDURES.—

(1) ORDERS IN EFFECT.—Notwithstanding the
amendments made by this Act, an order entered
under section 402(d)(1) of the Foreign Intelligence
that is in effect on the effective date of the amend-
ments made by this section shall remain in effect
until the expiration of the order.

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

SEC. 6. LIMITATIONS ON DISCLOSURE OF NATIONAL SECU-
RITY LETTERS.

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

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is
issued under subparagraph (B) and notice of
the right to judicial review under paragraph (3)
is provided, no wire or electronic communica-
tion service provider, or officer, employee, or
agent thereof, that receives a request under
subsection (a), shall disclose to any person that
the Director of the Federal Bureau of Invest-
tigation has sought or obtained access to infor-
mation or records under this section.
“(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subsection, there may result—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(iii) interference with diplomatic relations; or

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

“(2) EXCEPTION.—

“(A) IN GENERAL.—A wire or electronic communication service provider, or officer, employee, or agent thereof, that receives a request under subsection (a) may disclose information otherwise subject to any applicable nondisclosure requirement to—
“(i) those persons to whom disclosure
is necessary in order to comply with the re-
quest;
“(ii) an attorney in order to obtain
legal advice or assistance regarding the re-
quest; or
“(iii) other persons as permitted by
the Director of the Federal Bureau of In-
vestigation or the designee of the Director.
“(B) PERSONS NECESSARY FOR COMPLI-
ANCE.—Upon a request by the Director of the
Federal Bureau of Investigation or the designee
of the Director, those persons to whom disclo-
sure will be made under subparagraph (A)(i) or
to whom such disclosure was made before the
request shall be identified to the Director or the
designee.
“(C) NONDISCLOSURE REQUIREMENT.—A
person to whom disclosure is made under sub-
paragraph (A) shall be subject to the nondiscol-
sure requirements applicable to a person to
whom a request is issued under subsection (a)
in the same manner as the person to whom the
request is issued.
“(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a non-disclosure requirement shall inform the person of the applicable non-disclosure requirement.

“(3) RIGHT TO JUDICIAL REVIEW.—

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

“(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

“(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of this title, unless an appropriate official of the Federal Bureau of the Investigation makes a notification under paragraph (4).
“(4) TERMINATION.—In the case of any request for which a recipient has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the wire or electronic service provider, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.”.

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

“(d) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no consumer reporting agency, or officer, employee, or agent thereof, that receives a request or order under subsection (a), (b), or (c), shall disclose or specify in any consumer report, that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a), (b), or (c).
“(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subsection, there may result—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(iii) interference with diplomatic relations; or

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

“(2) EXCEPTION.—

“(A) IN GENERAL.—A consumer reporting agency, or officer, employee, or agent thereof, that receives a request or order under subsection (a), (b), or (c) may disclose information otherwise subject to any applicable nondisclosure requirement to—
“(i) those persons to whom disclosure is necessary in order to comply with the request or order;

“(ii) an attorney in order to obtain legal advice or assistance regarding the request or order; or

“(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(B) PERSONS NECESSARY FOR COMPLIANCE.—Upon a request by the Director of the Federal Bureau of Investigation or the designee of the Director, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the Director or the designee.

“(C) NONDISCLOSURE REQUIREMENT.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request or order is issued under subsection (a), (b), or (c) in the same manner as the person to whom the request or order is issued.
“(D) Notice.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(3) Right to Judicial Review.—

“(A) In General.—A consumer reporting agency that receives a request or order under subsection (a), (b), or (c) shall have the right to judicial review of any applicable nondisclosure requirement.

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

“(C) Initiation of Proceedings.—If a recipient of a request or order under subsection (a), (b), or (c) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the Federal Bureau of Investigation makes a notification under paragraph (4).
(4) TERMINATION.—In the case of any request or order for which a consumer reporting agency has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the consumer reporting agency, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.”.

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

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no consumer reporting agency, or officer, employee, or agent thereof, that receives a request under subsection (a), shall disclose to any person or specify in any consumer report, that a government agency has sought or ob-
obtained access to information under subsection (a).

“(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the head of a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee, certifies that, absent a prohibition of disclosure under this subsection, there may result—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(iii) interference with diplomatic relations; or

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

“(2) EXCEPTION.—

“(A) IN GENERAL.—A consumer reporting agency, or officer, employee, or agent thereof, that receives a request under subsection (a) may disclose information otherwise subject to any applicable nondisclosure requirement to—
“(i) those persons to whom disclosure is necessary in order to comply with the request;
“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or
“(iii) other persons as permitted by the head of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee.

“(B) Persons necessary for compliance.—Upon a request by the head of a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism, or a designee, those persons to whom disclosure will be made under subparagraph (A)(i) or to whom such disclosure was made before the request shall be identified to the head of the government agency or the designee.

“(C) Nondisclosure requirement.—A person to whom disclosure is made under sub-
paragraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same manner as the person to whom the request is issued.

“(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(3) RIGHT TO JUDICIAL REVIEW.—

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

“(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the government.

“(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the government shall initiate judicial review under the procedures established in section
3511 of title 18, United States Code, unless an appropriate official of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism makes a notification under paragraph (4).

“(4) TERMINATION.—In the case of any request for which a consumer reporting agency has submitted a notification under paragraph (3)(B), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism shall promptly notify the consumer reporting agency, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.”.

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

“(D) PROHIBITION OF CERTAIN DISCLOSURE.—

“(i) PROHIBITION.—
“(I) IN GENERAL.—If a certification is issued under subclause (II) and notice of the right to judicial review under clause (iii) is provided, no financial institution, or officer, employee, or agent thereof, that receives a request under subparagraph (A), shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under subparagraph (A).

“(II) CERTIFICATION.—The requirements of subclause (I) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that, absent a prohibition of disclosure under this subparagraph, there may result—

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

“(bb) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(cc) interference with diplomatic relations; or
“(dd) danger to the life or physical safety of any person.

“(ii) Exception.—

“(I) In general.—A financial institution, or officer, employee, or agent thereof, that receives a request under subparagraph (A) may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(aa) those persons to whom disclosure is necessary in order to comply with the request;

“(bb) an attorney in order to obtain legal advice or assistance regarding the request; or

“(cc) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(II) Persons necessary for compliance.—Upon a request by the Director of the Federal Bureau of Investigation or the designee of the Director, those persons to whom disclosure will be made under subclause (I)(aa) or to whom such disclosure was made before the request shall be identified to the Director or the designee.
“(III) NONDISCLOSURE REQUIREMENT.—
A person to whom disclosure is made under
subclause (I) shall be subject to the nondisclo-
sure requirements applicable to a person to
whom a request is issued under subparagraph
(A) in the same manner as the person to whom
the request is issued.

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

“(iii) RIGHT TO JUDICIAL REVIEW.—

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

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

“(III) INITIATION OF PROCEEDINGS.—If a
recipient of a request under subparagraph (A)
makes a notification under subclause (II), the
Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the Federal Bureau of Investigation makes a notification under clause (iv).

“(iv) TERMINATION.—In the case of any request for which a financial institution has submitted a notification under clause (iii)(II), if the facts supporting a nondisclosure requirement cease to exist, an appropriate official of the Federal Bureau of Investigation shall promptly notify the financial institution, or officer, employee, or agent thereof, subject to the nondisclosure requirement that the nondisclosure requirement is no longer in effect.”.

(e) REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES.—Section 802 of the National Security Act of 1947 (50 U.S.C. 436), is amended by striking subsection (b) and inserting the following:

“(b) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under paragraph (3) is provided, no governmental or private entity, or officer, employee, or agent thereof, that re-
ceives a request under subsection (a), shall dis-
close to any person that an authorized inves-
tigative agency described in subsection (a) has
sought or obtained access to information under
subsection (a).

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

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

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

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

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

“(2) EXCEPTION.—

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

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

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

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

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

“(C) NONDISCLOSURE REQUIREMENT.—A
person to whom disclosure is made under sub-
paragraph (A) shall be subject to the nondiscol-
sure requirements applicable to a person to
whom a request is issued under subsection (a)
in the same manner as the person to whom the request is issued.

“(D) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(3) RIGHT TO JUDICIAL REVIEW.—

“(A) IN GENERAL.—A governmental or private entity that receives a request under subsection (a) shall have the right to judicial review of any applicable nondisclosure requirement.

“(B) NOTIFICATION.—A request under subsection (a) shall state that if the recipient wishes to have a court review a nondisclosure requirement, the recipient shall notify the Government.

“(C) INITIATION OF PROCEEDINGS.—If a recipient of a request under subsection (a) makes a notification under subparagraph (B), the Government shall initiate judicial review under the procedures established in section 3511 of title 18, United States Code, unless an appropriate official of the authorized investiga-
tive agency described in subsection (a) makes a 
notification under paragraph (4).

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

SEC. 7. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL 
SECURITY LETTERS.

(a) FISA.—Section 501(f)(2) of the Foreign Intel-
is amended—

(1) in subparagraph (A)—

(A) in clause (i)—

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

(ii) by striking “Not less than 1 year” 
and all that follows; and
(B) in clause (ii), by striking “production order or nondisclosure”; and
(2) in subparagraph (C)—
(A) by striking clause (ii); and
(B) by redesignating clause (iii) as clause (ii).

(b) JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.—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 of 1978 (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 or order, 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 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 the judicial district in which the recipient of the order is doing business or in the district court of the United States for any judicial district within which the authorized investigation that is the basis for the request or order is being conducted. The applicable nondisclosure 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 shall, subject to paragraph (3), issue a nondisclosure order that includes conditions appropriate to the circumstances.

“(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 Fed-
eral 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, containing a statement of specific 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, counterterrorism, 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 shall issue a nondisclosure requirement order or extension thereof under this subsection if the court determines, giving substantial weight to the certification under paragraph (2) that there is reason to believe that disclosure of the information subject to the nondisclosure requirement during the applicable time period will result in—
“(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.”.

(e) MINIMIZATION.—Section 501(g)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(g)(1)) is amended by striking “Not later than” and all that follows and inserting “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 an order approved under this section, a judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was retained or disseminated.”.

SEC. 8. CERTIFICATION FOR ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS.

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

(1) by striking subsection (e);
(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

"(c) WRITTEN STATEMENT.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may make a certification under subsection (b) only upon a written statement, which shall be retained by the Federal Bureau of Investigation, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subsection (b)."

(b) IDENTITY OF FINANCIAL INSTITUTIONS AND CREDIT REPORTS.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u), as amended by this Act, is amended—

(1) by striking subsection (h);

(2) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (h), respectively; and

(3) by inserting after subsection (e) the following:
“(d) Written Statement.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may make a certification under subsection (a) or (b) only upon a written statement, which shall be retained by the Federal Bureau of Investigation, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized investigation described in subsection (a) or (b), as the case may be.”.

(c) Disclosures to Governmental Agencies for Counterterrorism Purposes.—Section 627(b) of the Fair Credit Reporting Act (15 U.S.C. 1681v(b)) is amended—

(1) in the subsection heading, by striking “FORM OF CERTIFICATION” and inserting “CERTIFICATION”;

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

“(1) Form of certification.—The certification”; and

(3) by adding at the end the following:

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

(d) FINANCIAL RECORDS.—Section 1114(a)(5) of the
3414(a)(5)), as amended by this Act, is amended—

(1) by striking subparagraph (C);

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

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

“(B) The Director of the Federal Bureau of Inves-
tigation, or a designee in a position not lower than Deputy
Assistant Director at Bureau headquarters or a Special
Agent in Charge in a Bureau field office designated by
the Director, may make a certification under subpara-
graph (A) only upon a written statement, which shall be
retained by the Federal Bureau of Investigation, of spe-
cific facts showing that there are reasonable grounds to
believe that the information sought is relevant to the au-
thorized investigation described in subparagraph (A).”.
(e) Requests by Authorized Investigative Agencies.—Section 802(a) of the National Security Act of 1947 (50 U.S.C. 436(a)) is amended by adding at the end the following:

“(4) A department or agency head, deputy department or agency head, or senior official described in paragraph (3)(A) may make a certification under paragraph (3)(A) only upon a written statement, which shall be retained by the authorized investigative agency, of specific facts showing that there are reasonable grounds to believe that the information sought is relevant to the authorized inquiry or investigation described in paragraph (3)(A)(ii).”.

(f) Technical and Conforming Amendments.—

(1) Obstruction of Criminal Investigations.—Section 1510(e) of title 18, United States Code, is amended by striking “section 2709(c)(1) of this title, section 626(d)(1) or 627(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)(1) or 1681v(e)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(i)),” and inserting “section 2709(d)(1) of this title, section 626(e)(1) or 627(e)(1) of the Fair Credit Reporting Act (15
(2) SEMIANNUAL REPORTS.—Section 507(b) of the National Security Act of 1947 (50 U.S.C. 415b(b)) is amended—

   (A) by striking paragraphs (4) and (5);

   and

   (B) by redesignating paragraph (6) as paragraph (4).

SEC. 9. PUBLIC REPORTING ON NATIONAL SECURITY LETTERS.

   (a) In General.—Section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 3511 note) is amended to read as follows:

   “(c) REPORTS ON REQUESTS FOR NATIONAL SECURITY LETTERS.—

  “(1) DEFINITIONS.—In this subsection—

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

   ““(i) with respect to the first report submitted under paragraph (2) or (3), the period beginning 180 days after the date of enactment of the PATRIOT Sunsets
Extension Act of 2011 and ending on December 31, 2011; and

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

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

“(2) CLASSIFIED FORM.—

“(A) IN GENERAL.—Not later than February 1, 2012, and every 6 months thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the requests made under section 2709(a) of title 18, United

“(B) CONTENTS.—Each report under subparagraph (A) shall include, for each provision of law described in subparagraph (A)—

“(i) the number of authorized requests under the provision, including requests for subscriber information; and

“(ii) the number of authorized requests under the provision—

“(I) that relate to a United States person;

“(II) that relate to a person that is not a United States person;

“(III) that relate to a person that is—

“(aa) the subject of an authorized national security investigation; or
“(bb) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and

“(IV) that relate to a person that is not known to be the subject of an authorized national security investigation or to have been in contact with or otherwise directly linked to the subject of an authorized national security investigation.

“(3) UNCLASSIFIED FORM.—

“(A) IN GENERAL.—Not later than February 1, 2012, and every 6 months thereafter, the Attorney General shall submit to the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Financial Services of the House of Representatives a report fully informing the committees concerning the aggregate total of all requests identified under paragraph
(2) during the applicable period ending on the last day of the second month before the date for submission of the report. Each report under this subparagraph shall be in unclassified form.

“(B) CONTENTS.—Each report under subparagraph (A) shall include the aggregate total of requests—

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

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

“(iii) that relate to a person that is—

“(I) the subject of an authorized national security investigation; or

“(II) an individual who has been in contact with or otherwise directly linked to the subject of an authorized national security investigation; and

“(iv) that relate to a person that is not known to be the subject of an authorized national security investigation or to have been in contact with or otherwise directly linked to the subject of an authorized national security investigation.”.

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

“SEC. 602. ANNUAL UNCLASSIFIED REPORT.

“Not later than June 30, 2012, and every year thereafter, the Attorney General, in consultation with the Director of National Intelligence, and with due regard for the protection of classified information from unauthorized disclosure, 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 an unclassified report summarizing how the authorities under this Act are used, including the impact of the use of the authorities under this Act on the privacy of United States persons (as defined in section 101).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

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 inserting after the item relating to section 601 the following:

“Sec. 602. Annual unclassified report.”.

3 SEC. 11. 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”;

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

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

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

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

“(C) with respect to calendar years 2007 through 2013, an examination of the minimization procedures used in relation to orders under section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) and whether the minimization procedures protect the constitutional rights of United States persons.”;

and

(ii) in subparagraph (D), by striking “(as such term is defined in section 3(4) of
the National Security Act of 1947 (50 U.S.C. 401a(4)))’’;

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

“(3) Calendar years 2007, 2008, and 2009.—Not later than March 31, 2012, 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 subsection (a) for calendar years 2007, 2008, and 2009.

“(4) Calendar years 2010 and 2011.—Not later than March 31, 2013, 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 subsection (a) for calendar years 2010 and 2011.
“(5) Calendar years 2012 and 2013.—Not later than March 31, 2015, 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 subsection (a) for calendar years 2012 and 2013.”;

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

(4) by inserting after subsection (c) the following:

“(d) Intelligence Assessment.—

“(1) In general.—For the period beginning on January 1, 2007 and ending on December 31, 2013, the Inspector General of each element of the intelligence community outside of the Department of Justice that used information acquired under title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) in the intelligence activities of the element of the intelligence community shall—
“(A) assess the importance of the information to the intelligence activities of the element of the intelligence community;

“(B) examine the manner in which that information was collected, retained, analyzed, and disseminated by the element of the intelligence community;

“(C) describe any noteworthy facts or circumstances relating to orders under title V of the Foreign Intelligence Surveillance Act of 1978 as the orders relate to the element of the intelligence community; and

“(D) examine any minimization procedures used by the element of the intelligence community under title V of the Foreign Intelligence Surveillance Act of 1978 and whether the minimization procedures protect the constitutional rights of United States persons.

“(2) Submission dates for assessment.—

“(A) Calendar years 2007 through 2009.—Not later than March 31, 2012, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection shall submit to the Committee 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 Representative a report containing the results of the assessment for calendar years 2007 through 2009.

“(B) Calendar Years 2010 and 2011.—Not later than March 31, 2013, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection 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 assessment for calendar years 2010 and 2011.

“(C) Calendar Years 2012 and 2013.—Not later than March 31, 2015, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection 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
on Intelligence of the House of Representatives
a report containing the results of the assess-
ment for calendar years 2012 and 2013.”;
(5) in subsection (e), as redesignated by para-
graph (3)—
   (A) in paragraph (1)—
      (i) by striking “a report under sub-
section (c)(1) or (c)(2)” and inserting “any
report under subsection (c) or (d)”; and
      (ii) by inserting “and any Inspector
General of an element of the intelligence
community that submits a report under
this section” after “Justice”; and
   (B) in paragraph (2), by striking “the re-
ports submitted under subsection (c)(1) and
(c)(2)” and inserting “any report submitted
under subsection (c) or (d)”;
(6) in subsection (f) as redesignated by para-
graph (3)—
   (A) by striking “The reports submitted
under subsections (c)(1) and (c)(2)” and insert-
ing “Each report submitted under subsection
(c)”; and
   (B) by striking “subsection (d)(2)” and in-
serting “subsection (e)(2)” ; and
(7) by adding at the end the following:

“(g) DEFINITIONS.—In this section—

“(1) the term ‘intelligence community’ has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a); and

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

(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)—

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

(B) in paragraph (3)(C), by striking “(as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)))”;

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

“(3) CALENDAR YEARS 2007, 2008, AND 2009.—Not later than March 31, 2012, 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 subsection (a) for calendar years 2007, 2008, and 2009.

“(4) Calendar Years 2010 and 2011.—Not later than March 31, 2013, 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 subsection (a) for calendar years 2010 and 2011.

“(5) Calendar Years 2012 and 2013.—Not later than March 31, 2015, 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 con-
ducted under subsection (a) for calendar years 2012
and 2013.”;

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

“(h) DEFINITIONS.—In this section—

“(1) the term ‘intelligence community’ has the
meaning given that term in section 3 of the National
Security Act of 1947 (50 U.S.C. 401a);

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

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

“(B) section 1114(a)(5)(A) of the Right to
3414(a)(5)(A)) (to obtain financial institution
customer records);

“(C) section 802 of the National Security
Act of 1947 (50 U.S.C. 436) (to obtain finan-
cial information, records, and consumer re-
ports);

“(D) section 626 of the Fair Credit Re-
porting Act (15 U.S.C. 1681u) (to obtain cer-
tain financial information and consumer re-
ports); or
“(E) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations); and

“(3) the term ‘United States person’ has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).”;

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

(5) by inserting after subsection (c) the following:

“(d) INTELLIGENCE ASSESSMENT.—

“(1) IN GENERAL.—For the period beginning on January 1, 2007 and ending on December 31, 2013, the Inspector General of each element of the intelligence community outside of the Department of Justice that issued national security letters in the intelligence activities of the element of the intelligence community shall—

“(A) examine the use of national security letters by the element of the intelligence community during the period;

“(B) describe any noteworthy facts or circumstances relating to the use of national secu-
rity letters by the element of the intelligence community, including any improper or illegal use of such authority;

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

“(D) examine the manner in which information received under the national security letters was collected, retained, analyzed, and disseminated.

“(2) Submission dates for assessment.—

“(A) Calendar years 2007 through 2009.—Not later than March 31, 2012, the Inspector General of each element of the intelligence community that conducts an assessment under this subsection 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 assessment for calendar years 2007 through 2009.
“(B) Calendar years 2010 and 2011.—
Not later than March 31, 2013, the Inspector General of any element of the intelligence community that conducts an assessment under this subsection 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 assessment for calendar years 2010 and 2011.

“(C) Calendar years 2012 and 2013.—
Not later than March 31, 2015, the Inspector General of any element of the intelligence community that conducts an assessment under this subsection 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 assessment for calendar years 2012 and 2013.”;

(6) in subsection (e), as redesignated by paragraph (4)—

(A) in paragraph (1)—
(i) by striking “a report under subsection (c)(1) or (c)(2)” and inserting “any report under subsection (c) or (d)”;

(ii) by inserting “and any Inspector General of an element of the intelligence community that submits a report under this section” after “Justice”; and

(B) in paragraph (2), by striking “the reports submitted under subsection (c)(1) or (c)(2)” and inserting “any report submitted under subsection (c) or (d)”;

(7) in subsection (f), as redesignated by paragraph (4)—

(A) by striking “The reports submitted under subsections (c)(1) or (c)(2)” and inserting “Each report submitted under subsection (c)”;

(B) by striking “subsection (d)(2)” and inserting “subsection (e)(2)”.

c) 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

(2) REQUIREMENTS.—The audits required under paragraph (1) shall include—

(A) an examination of the use of pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 for calendar years 2007 through 2013;

(B) an examination of the installation and use of a pen register or trap and trace device on emergency bases under section 403 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1843);

(C) 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

(D) 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;

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

(iii) with respect to calendar years 2010 through 2013, an examination of the minimization procedures of the Federal Bureau of Investigation 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 constitutional rights of United States persons;

(iv) whether, and how often, the Federal Bureau of Investigation used information acquired under a pen register or trap and trace device under title IV of the Foreign 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, or to another department,
agency, or instrumentality of Federal,
State, local, or tribal governments; 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) CALENDAR YEARS 2007 THROUGH
2009.—Not later than March 31, 2012, the In-
spector 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 con-
taining the results of the audits conducted
under paragraph (1) for calendar years 2007
through 2009.
(B) Calendar years 2010 and 2011.—Not later than March 31, 2013, 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 audits conducted under paragraph (1) for calendar years 2010 and 2011.

(C) Calendar years 2012 and 2013.—Not later than March 31, 2015, 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 audits conducted under paragraph (1) for calendar years 2012 and 2013.

(4) Intelligence assessment.—

(A) In general.—For the period beginning January 1, 2007 and ending on December
31, 2013, the Inspector General of any element of the intelligence community outside of the Department of Justice that used information acquired under a pen register or trap and trace device under title IV of the Foreign Intelligence Surveillance Act of 1978 in the intelligence activities of the element of the intelligence community shall—

(i) assess the importance of the information to the intelligence activities of the element of the intelligence community;

(ii) examine the manner in which the information was collected, retained, analyzed, and disseminated;

(iii) describe any noteworthy facts or circumstances relating to orders under title IV of the Foreign Intelligence Surveillance Act of 1978 as the orders relate to the element of the intelligence community; and

(iv) examine any minimization procedures used by the element of the intelligence community in relation to pen registers and trap and trace devices under title IV of the Foreign Intelligence Surveillance Act of 1978 and whether the mini-
mization procedures protect the constitutional rights of United States persons.

(B) Submission dates for assessment.—

(i) Calendar years 2007 through 2009.—Not later than March 31, 2012, the Inspector General of each element of the intelligence community that conducts an assessment under this paragraph 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 Representa-tive a report containing the results of the assessment for calendar years 2007 through 2009.

(ii) Calendar years 2010 and 2011.—Not later than March 31, 2013, the Inspector General of each element of the intelligence community that conducts an assessment under this paragraph shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judici-
ary and the Permanent Select Committee
on Intelligence of the House of Represent-
ative a report containing the results of the
assessment for calendar years 2010 and
2011.

(iii) Calendar Years 2012 and
2013.—Not later than March 31, 2015, the
Inspector General of each element of the
intelligence community that conducts an
assessment under this paragraph shall sub-
mitt to the Committee on the Judiciary and
the Select Committee on Intelligence of the
Senate and the Committee on the Judici-
ary and the Permanent Select Committee
on Intelligence of the House of Represent-
ative a report containing the results of the
assessment for calendar years 2012 and
2013.

(5) Prior notice to attorney general and
director of national intelligence; com-
ments.—

(A) Notice.—Not later than 30 days be-
"
ment of the intelligence community that submits a report under this subsection 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 any report submitted under paragraph (3) or (4) as the Attorney General or the Director of National Intelligence may consider necessary.

(6) UNCLASSIFIED FORM.—Each report submitted under paragraph (3) and any comments included in that report under paragraph (5)(B) shall be in unclassified form, but may include a classified annex.

(d) DEFINITIONS.—In this section—

(1) the terms “foreign intelligence information” and “United States person” have the meanings given those terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

(2) the term “intelligence community” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).
(c) OFFSET.—Of the unobligated balances available in the Department of Justice Assets Forfeiture Fund established under section 524(c)(1) of title 28, United States Code, $9,000,000 are permanently rescinded and shall be returned to the general fund of the Treasury.

SEC. 12. DELAYED NOTICE SEARCH WARRANTS.

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

SEC. 13. PROCEDURES.


(b) CONSIDERATIONS.—In reviewing and revising the procedures described in subsection (a), the Attorney General shall give due consideration to the privacy interests of individuals and the need to protect national security.

(c) REVISIONS TO PROCEDURES AND OVERSIGHT.—If the Attorney General makes any significant changes to
the procedures described in subsection (a), the Attorney
General shall notify and submit a copy of the changes 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 Intel-
ligence of the House of Representatives.

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

SEC. 15. OFFSET.
Of the unobligated balances available in the Depart-
ment of Justice Assets Forfeiture Fund established under
section 524(c)(1) of title 28, United States Code,
$9,000,000 are permanently rescinded and shall be re-
turned to the general fund of the Treasury.

SEC. 16. ELECTRONIC SURVEILLANCE.
Section 105(c)(1)(A) of the Foreign Intelligence Sur-
veillance Act of 1978 (50 U.S.C. 1805(c)(1)(A)) is amend-
ed by inserting “with particularity” after “description”.

SEC. 17. EFFECTIVE DATE.

The amendments made by sections 4, 5, 6, 7, 8, and 12 shall take effect on the date that is 120 days after the date of enactment of this Act.