

112TH CONGRESS  
1ST SESSION

# H. R. 1805

To extend the sunset of certain provisions of the USA PATRIOT Act,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2011

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Financial Services and Select Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To extend the sunset of certain provisions of the USA  
PATRIOT Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “USA PATRIOT Act  
5 Sunset Extension Act of 2011”.

6 **SEC. 2. SUNSETS.**

7 (a) SECTIONS 206 AND 215 SUNSET.—

1           (1) IN GENERAL.—Section 102(b)(1) of the  
2           USA PATRIOT Improvement and Reauthorization  
3           Act of 2005 (Public Law 109–177; 50 U.S.C. 1805  
4           note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862  
5           note) is amended by striking “May 27, 2011” and  
6           inserting “December 31, 2013”.

7           (2) CONFORMING AMENDMENTS.—

8           (A) IN GENERAL.—The Foreign Intel-  
9           ligence Surveillance Act of 1978 (50 U.S.C.  
10           1801 et seq.), as amended by section 3 of this  
11           Act, is amended—

12                   (i) in the table of contents in the first  
13                   section, by striking the items relating to  
14                   title V and sections 501, 502, and 503 and  
15                   inserting the following:

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR  
FOREIGN INTELLIGENCE PURPOSES

“Sec. 501. Definitions.

“Sec. 502. Access to certain business records for foreign intelligence and inter-  
national terrorism investigations.”;

16                   (ii) in title V (50 U.S.C. 1861 et  
17                   seq.)—

18                           (I) in the title heading, by strik-  
19                           ing “AND OTHER TANGIBLE  
20                           THINGS”; and

21                           (II) by striking section 503; and

1 (iii) in section 601(a)(1)(D) (50  
2 U.S.C. 1871(a)(1)(D)), by striking “sec-  
3 tion 501;” and inserting “section 502 or  
4 under section 501 pursuant to section  
5 102(b)(2) of the USA PATRIOT Improve-  
6 ment and Reauthorization Act of 2005  
7 (Public Law 109–177; 50 U.S.C. 1861  
8 note);”.

9 (B) APPLICATION UNDER SECTION 404 OF  
10 THE FISA AMENDMENTS ACT OF 2008.—Section  
11 404(b)(4)(A) of the FISA Amendments Act of  
12 2008 (Public Law 110–261; 122 Stat. 2477) is  
13 amended by striking the period at the end and  
14 inserting “, except that paragraph (1)(D) of  
15 such section 601(a) shall be applied as if it read  
16 as follows:

17 ““(D) access to records under section 502  
18 or under section 501 pursuant to section  
19 102(b)(2) of the USA PATRIOT Improvement  
20 and Reauthorization Act of 2005 (Public Law  
21 109–177; 50 U.S.C. 1861 note);’.”.

22 (C) EFFECTIVE DATE.—The amendments  
23 made by this paragraph shall take effect on De-  
24 cember 31, 2013.

1 (b) INDIVIDUAL TERRORISTS AS AGENTS OF FOR-  
2 EIGN POWERS.—

3 (1) EXTENSION OF SUNSET.—Section 6001(b)  
4 of the Intelligence Reform and Terrorism Prevention  
5 Act of 2004 (Public Law 108–458; 50 U.S.C. 1801  
6 note) is amended to read as follows:

7 “(b) SUNSET.—

8 “(1) REPEAL.—Subparagraph (C) of section  
9 101(b)(1) of the Foreign Intelligence Surveillance  
10 Act of 1978 (50 U.S.C. 1801(b)(1)), as added by  
11 subsection (a), is repealed effective December 31,  
12 2013.

13 “(2) TRANSITION PROVISION.—Notwithstanding  
14 paragraph (1), subparagraph (C) of section  
15 101(b)(1) of the Foreign Intelligence Surveillance  
16 Act of 1978 (50 U.S.C. 1801(b)(1)) shall continue  
17 to apply on and after December 31, 2013, with re-  
18 spect to any particular foreign intelligence investiga-  
19 tion or with respect to any particular offense or po-  
20 tential offense that began or occurred before Decem-  
21 ber 31, 2013.”.

22 (2) CONFORMING AMENDMENT.—

23 (A) IN GENERAL.—Section 601(a)(2) of  
24 the Foreign Intelligence Surveillance Act of  
25 1978 (50 U.S.C. 1871(a)(2)) is amended by

1 striking the semicolon at the end and inserting  
2 “pursuant to subsection (b)(2) of section 6001  
3 of the Intelligence Reform and Terrorism Pre-  
4 vention Act of 2004 (Public Law 108–458; 50  
5 U.S.C. 1801 note);”.

6 (B) EFFECTIVE DATE.—The amendment  
7 made by subparagraph (A) shall take effect on  
8 December 31, 2013.

9 (c) NATIONAL SECURITY LETTERS.—

10 (1) REPEAL.—Effective on December 31,  
11 2013—

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

15 (B) section 1114(a)(5) of the Right to Fi-  
16 nancial Privacy Act of 1978 (12 U.S.C.  
17 3414(a)(5)) is amended to read as such provi-  
18 sion read on October 25, 2001;

19 (C) subsections (a) and (b) of section 626  
20 of the Fair Credit Reporting Act (15 U.S.C.  
21 1681u) are amended to read as subsections (a)  
22 and (b), respectively, of the second of the 2 sec-  
23 tions designated as section 624 of such Act (15  
24 U.S.C. 1681u) (relating to disclosure to the  
25 Federal Bureau of Investigation for counter-

1 intelligence purposes), as added by section 601  
2 of the Intelligence Authorization Act for Fiscal  
3 Year 1996 (Public Law 104–93; 109 Stat.  
4 974), read on October 25, 2001;

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

7 (E) section 802 of the National Security  
8 Act of 1947 (50 U.S.C. 436) is amended to  
9 read as such provision read on October 25,  
10 2001.

11 (2) TRANSITION PROVISION.—Notwithstanding  
12 paragraph (1), the provisions of law referred to in  
13 paragraph (1), as in effect on December 30, 2013,  
14 shall continue to apply on and after December 31,  
15 2013, with respect to any particular foreign intel-  
16 ligence investigation or with respect to any par-  
17 ticular offense or potential offense that began or oc-  
18 curred before December 31, 2013.

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

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

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

1 (ii) in subsection (b)(1)(A), as amend-  
2 ed by section 6(b) of this Act, by striking  
3 “section 626 or 627 of the Fair Credit Re-  
4 porting Act (15 U.S.C. 1681u and 1681v)”  
5 and inserting “section 626 of the Fair  
6 Credit Reporting Act (15 U.S.C. 1681u)”;  
7 (B) section 118(c) of the USA PATRIOT  
8 Improvement and Reauthorization Act of 2005  
9 (18 U.S.C. 3511 note) is amended—

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

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

14 (iii) by striking subparagraph (E);  
15 and

16 (C) the table of sections for the Fair Cred-  
17 it Reporting Act (15 U.S.C. 1681 et seq.) is  
18 amended by striking the item relating to section  
19 627.

20 (d) FISA AMENDMENTS ACT OF 2008.—

21 (1) EXTENSION.—Section 403(b)(1) of the  
22 FISA Amendments Act of 2008 (Public Law 110–  
23 261; 50 U.S.C. 1881 note) is amended by striking  
24 “December 31, 2012” and inserting “December 31,  
25 2013”.

1           (2) TECHNICAL AND CONFORMING AMEND-  
2           MENTS.—Section 403(b)(2) of such Act (Public Law  
3           110–261; 122 Stat. 2474) is amended by striking  
4           “December 31, 2012” and inserting “December 31,  
5           2013”.

6           (3) ORDERS IN EFFECT.—Section 404(b)(1) of  
7           such Act (Public Law 110–261; 50 U.S.C. 1801  
8           note) is amended in the heading by striking “DE-  
9           CEMBER 31, 2012” and inserting “DECEMBER 31,  
10          2013”.

11 **SEC. 3. ORDERS FOR ACCESS TO CERTAIN BUSINESS**  
12 **RECORDS AND TANGIBLE THINGS.**

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

16                (1) in the section heading, by inserting “**AND**  
17                **OTHER TANGIBLE THINGS**” after “**CERTAIN**  
18                **BUSINESS RECORDS**”;

19                (2) in subsection (b)(2)—

20                    (A) in subparagraph (A)—

21                            (i) by striking “a statement of facts  
22                            showing” and inserting “a statement of  
23                            the facts and circumstances relied upon by  
24                            the applicant to justify the belief of the ap-  
25                            plicant”; and



1                   (ii) by striking “clandestine intel-  
2                   ligence activities,” and all that follows and  
3                   inserting “clandestine intelligence activi-  
4                   ties;”; and

5                   (B) by striking subparagraph (B) and in-  
6                   serting the following:

7                   “(B) if the records sought contain book-  
8                   seller records, or are from a library and contain  
9                   personally identifiable information about a pa-  
10                  tron of the library, a statement of facts showing  
11                  that there are reasonable grounds to believe  
12                  that the records sought—

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

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

23                  “(II) are relevant to the activities of  
24                  a suspected agent of a foreign power who

1 is the subject of such authorized investiga-  
2 tion; or

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

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

8 (3) in subsection (c)(1)—

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

13 (B) by inserting “, and directing that the  
14 minimization procedures be followed” after “re-  
15 lease of tangible things”; and

16 (C) by striking the second sentence; and

17 (4) by adding at the end the following:

18 “(i) DEFINITIONS.—In this section—

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

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

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

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

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

17          (c) **TECHNICAL AND CONFORMING AMENDMENTS.**—

18                  (1) **DEFINITIONS.**—Title V of the Foreign In-  
19          telligence Surveillance Act of 1978 (50 U.S.C. 1861  
20          et seq.) is amended by adding at the end the fol-  
21          lowing:

22          **“SEC. 503. DEFINITIONS.**

23                  “In this title, the terms ‘Attorney General’, ‘foreign  
24          intelligence information’, ‘international terrorism’, ‘per-

1 son', 'United States', and 'United States person' have the  
2 meanings given such terms in section 101.”.

3 (2) TITLE HEADING.—Title V of the Foreign  
4 Intelligence Surveillance Act of 1978 (50 U.S.C.  
5 1861 et seq.) is amended in the title heading by in-  
6 sserting “AND OTHER TANGIBLE THINGS”  
7 after “CERTAIN BUSINESS RECORDS”.

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

12 (A) by striking the items relating to title  
13 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 for-  
eign intelligence purposes and international terrorism investiga-  
tions.”;

14 and

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

“Sec. 503. Definitions.”.

17 **SEC. 4. ORDERS FOR PEN REGISTERS AND TRAP AND**  
18 **TRACE DEVICES FOR FOREIGN INTEL-**  
19 **LIGENCE PURPOSES.**

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

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

3 (2) in paragraph (2)—

4 (A) by striking “a certification by the ap-  
5 plicant” and inserting “a statement of the facts  
6 and circumstances relied upon by the applicant  
7 to justify the belief of the applicant”; and

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

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

11 “(3) a statement of whether minimization pro-  
12 cedures are being proposed and, if so, a statement  
13 of the proposed minimization procedures.”.

14 (b) MINIMIZATION.—

15 (1) DEFINITION.—Section 401 of the Foreign  
16 Intelligence Surveillance Act of 1978 (50 U.S.C.  
17 1841) is amended by adding at the end the fol-  
18 lowing:

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

21 “(A) specific procedures, that are reason-  
22 ably designed in light of the purpose and tech-  
23 nique of an order for the installation and use  
24 of a pen register or trap and trace device, to  
25 minimize the retention, and prohibit the dis-

1           semination, of nonpublicly available information  
2           known to concern unconsenting United States  
3           persons consistent with the need of the United  
4           States to obtain, produce, and disseminate for-  
5           eign intelligence information;

6           “(B) procedures that require that nonpub-  
7           licly available information, which is not foreign  
8           intelligence information shall not be dissemi-  
9           nated in a manner that identifies any United  
10          States person, without such person’s consent,  
11          unless such person’s identity is necessary to un-  
12          derstand foreign intelligence information or as-  
13          sess its importance; and

14          “(C) notwithstanding subparagraphs (A)  
15          and (B), procedures that allow for the retention  
16          and dissemination of information that is evi-  
17          dence of a crime which has been, is being, or  
18          is about to be committed and that is to be re-  
19          tained or disseminated for law enforcement pur-  
20          poses.”.

21          (2) PEN REGISTERS AND TRAP AND TRACE DE-  
22          VICES.—Section 402 of the Foreign Intelligence Sur-  
23          veillance Act of 1978 (50 U.S.C. 1842) is amend-  
24          ed—

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

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

6 “(B) that, if there are exceptional cir-  
7 cumstances justifying the use of minimization proce-  
8 dures in a particular case, the proposed minimiza-  
9 tion procedures meet the definition of minimization  
10 procedures under this title.”; and

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

12 “(h) At or before the end of the period of time for  
13 which the installation and use of a pen register or trap  
14 and trace device is approved under an order or an exten-  
15 sion under this section, the judge may assess compliance  
16 with any applicable minimization procedures by reviewing  
17 the circumstances under which information concerning  
18 United States persons was retained or disseminated.”.

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

22 (A) by redesignating subsection (c) as sub-  
23 section (d); and

24 (B) by inserting after subsection (b) the  
25 following:

1       “(c) If the Attorney General authorizes the emer-  
2 gency installation and use of a pen register or trap and  
3 trace device under this section, the Attorney General shall  
4 require that minimization procedures be followed, if appro-  
5 priate.”.

6           (4) USE OF INFORMATION.—Section 405(a)(1)  
7 of the Foreign Intelligence Surveillance Act of 1978  
8 (50 U.S.C. 1845(a)(1)) is amended by striking “pro-  
9 visions of this section” and inserting “minimization  
10 procedures required under this title”.

11       (c) TRANSITION PROCEDURES.—

12           (1) ORDERS IN EFFECT.—Notwithstanding the  
13 amendments made by this Act, an order entered  
14 under section 402(d)(1) of the Foreign Intelligence  
15 Surveillance Act of 1978 (50 U.S.C. 1842(d)(1))  
16 that is in effect on the effective date of the amend-  
17 ments made by this section shall remain in effect  
18 until the expiration of the order.

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



1 **SEC. 5. LIMITATIONS ON DISCLOSURE OF NATIONAL SECUR-**  
2 **RITY LETTERS.**

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

6 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

7 “(1) PROHIBITION.—

8 “(A) IN GENERAL.—If a certification is  
9 issued under subparagraph (B) and notice of  
10 the right to judicial review under paragraph (3)  
11 is provided, no wire or electronic communica-  
12 tion service provider, or officer, employee, or  
13 agent thereof, that receives a request under  
14 subsection (a), shall disclose to any person that  
15 the Director of the Federal Bureau of Inves-  
16 tigation has sought or obtained access to infor-  
17 mation or records under this section.

18 “(B) CERTIFICATION.—The requirements  
19 of subparagraph (A) shall apply if the Director  
20 of the Federal Bureau of Investigation, or a  
21 designee of the Director whose rank shall be no  
22 lower than Deputy Assistant Director at Bu-  
23 reau headquarters or a Special Agent in Charge  
24 of a Bureau field office, certifies that, absent a  
25 prohibition of disclosure under this subsection,  
26 there may result—

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

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

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

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

10       “(2) EXCEPTION.—

11           “(A) IN GENERAL.—A wire or electronic  
12 communication service provider, or officer, em-  
13 ployee, or agent thereof, that receives a request  
14 under subsection (a) may disclose information  
15 otherwise subject to any applicable nondisclo-  
16 sure requirement to—

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

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

23           “(iii) other persons as permitted by  
24 the Director of the Federal Bureau of In-  
25 vestigation or the designee of the Director.

1           “(B) PERSONS NECESSARY FOR COMPLI-  
2 ANCE.—Upon a request by the Director of the  
3 Federal Bureau of Investigation or the designee  
4 of the Director, those persons to whom disclo-  
5 sure will be made under subparagraph (A)(i) or  
6 to whom such disclosure was made before the  
7 request shall be identified to the Director or the  
8 designee.

9           “(C) NONDISCLOSURE REQUIREMENT.—A  
10 person to whom disclosure is made under sub-  
11 paragraph (A) shall be subject to the nondisclo-  
12 sure requirements applicable to a person to  
13 whom a request is issued under subsection (a)  
14 in the same manner as the person to whom the  
15 request is issued.

16           “(D) NOTICE.—Any recipient that dis-  
17 closes to a person described in subparagraph  
18 (A) information otherwise subject to a non-  
19 disclosure requirement shall inform the person  
20 of the applicable nondisclosure requirement.

21           “(3) RIGHT TO JUDICIAL REVIEW.—

22           “(A) IN GENERAL.—A wire or electronic  
23 communications service provider that receives a  
24 request under subsection (a) shall have the

1 right to judicial review of any applicable non-  
2 disclosure requirement.

3 “(B) NOTIFICATION.—A request under  
4 subsection (a) shall state that if the recipient  
5 wishes to have a court review a nondisclosure  
6 requirement, the recipient shall notify the Gov-  
7 ernment.

8 “(C) INITIATION OF PROCEEDINGS.—If a  
9 recipient of a request under subsection (a)  
10 makes a notification under subparagraph (B),  
11 the Government shall initiate judicial review  
12 under the procedures established in section  
13 3511 of this title, unless an appropriate official  
14 of the Federal Bureau of the Investigation  
15 makes a notification under paragraph (4).

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

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

5           “(d) PROHIBITION OF CERTAIN DISCLOSURE.—

6                   “(1) PROHIBITION.—

7                           “(A) IN GENERAL.—If a certification is  
8 issued under subparagraph (B) and notice of  
9 the right to judicial review under paragraph (3)  
10 is provided, no consumer reporting agency, or  
11 officer, employee, or agent thereof, that receives  
12 a request or order under subsection (a), (b), or  
13 (c), shall disclose or specify in any consumer re-  
14 port, that the Federal Bureau of Investigation  
15 has sought or obtained access to information or  
16 records under subsection (a), (b), or (c).

17                           “(B) CERTIFICATION.—The requirements  
18 of subparagraph (A) shall apply if the Director  
19 of the Federal Bureau of Investigation, or a  
20 designee of the Director whose rank shall be no  
21 lower than Deputy Assistant Director at Bu-  
22 reau headquarters or a Special Agent in Charge  
23 of a Bureau field office, certifies that, absent a  
24 prohibition of disclosure under this subsection,  
25 there may result—

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

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

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

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

10       “(2) EXCEPTION.—

11           “(A) IN GENERAL.—A consumer reporting  
12 agency, or officer, employee, or agent thereof,  
13 that receives a request or order under sub-  
14 section (a), (b), or (c) may disclose information  
15 otherwise subject to any applicable nondisclo-  
16 sure requirement to—

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

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

23           “(iii) other persons as permitted by  
24 the Director of the Federal Bureau of In-  
25 vestigation or the designee of the Director.

1           “(B) PERSONS NECESSARY FOR COMPLI-  
2 ANCE.—Upon a request by the Director of the  
3 Federal Bureau of Investigation or the designee  
4 of the Director, those persons to whom disclo-  
5 sure will be made under subparagraph (A)(i) or  
6 to whom such disclosure was made before the  
7 request shall be identified to the Director or the  
8 designee.

9           “(C) NONDISCLOSURE REQUIREMENT.—A  
10 person to whom disclosure is made under sub-  
11 paragraph (A) shall be subject to the nondisclo-  
12 sure requirements applicable to a person to  
13 whom a request or order is issued under sub-  
14 section (a), (b), or (c) in the same manner as  
15 the person to whom the request or order is  
16 issued.

17           “(D) NOTICE.—Any recipient that dis-  
18 closes to a person described in subparagraph  
19 (A) information otherwise subject to a non-  
20 disclosure requirement shall inform the person  
21 of the applicable nondisclosure requirement.

22           “(3) RIGHT TO JUDICIAL REVIEW.—

23           “(A) IN GENERAL.—A consumer reporting  
24 agency that receives a request or order under  
25 subsection (a), (b), or (c) shall have the right

1 to judicial review of any applicable nondisclo-  
2 sure requirement.

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

8 “(C) INITIATION OF PROCEEDINGS.—If a  
9 recipient of a request or order under subsection  
10 (a), (b), or (c) makes a notification under sub-  
11 paragraph (B), the Government shall initiate  
12 judicial review under the procedures established  
13 in section 3511 of title 18, United States Code,  
14 unless an appropriate official of the Federal  
15 Bureau of Investigation makes a notification  
16 under paragraph (4).

17 “(4) TERMINATION.—In the case of any request  
18 or order for which a consumer reporting agency has  
19 submitted a notification under paragraph (3)(B), if  
20 the facts supporting a nondisclosure requirement  
21 cease to exist, an appropriate official of the Federal  
22 Bureau of Investigation shall promptly notify the  
23 consumer reporting agency, or officer, employee, or  
24 agent thereof, subject to the nondisclosure require-



1           ment that the nondisclosure requirement is no longer  
2           in effect.”.

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

7           “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

8                   “(1) PROHIBITION.—

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

19                           “(B) CERTIFICATION.—The requirements  
20                           of subparagraph (A) shall apply if the head of  
21                           a government agency authorized to conduct in-  
22                           vestigations of, or intelligence or counterintel-  
23                           ligence activities or analysis related to, inter-  
24                           national terrorism, or a designee, certifies that,

1 absent a prohibition of disclosure under this  
2 subsection, there may result—

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

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

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

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

12 “(2) EXCEPTION.—

13 “(A) IN GENERAL.—A consumer reporting  
14 agency, or officer, employee, or agent thereof,  
15 that receives a request under subsection (a)  
16 may disclose information otherwise subject to  
17 any applicable nondisclosure requirement to—

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

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

24 “(iii) other persons as permitted by  
25 the head of the government agency author-

1            ized to conduct investigations of, or intel-  
2            ligence or counterintelligence activities or  
3            analysis related to, international terrorism,  
4            or a designee.

5            “(B) PERSONS NECESSARY FOR COMPLI-  
6            ANCE.—Upon a request by the head of a gov-  
7            ernment agency authorized to conduct inves-  
8            tigation of, or intelligence or counterintel-  
9            ligence activities or analysis related to, inter-  
10           national terrorism, or a designee, those persons  
11           to whom disclosure will be made under subpara-  
12           graph (A)(i) or to whom such disclosure was  
13           made before the request shall be identified to  
14           the head of the government agency or the des-  
15           ignee.

16           “(C) NONDISCLOSURE REQUIREMENT.—A  
17           person to whom disclosure is made under sub-  
18           paragraph (A) shall be subject to the nondislo-  
19           sure requirements applicable to a person to  
20           whom a request is issued under subsection (a)  
21           in the same manner as the person to whom the  
22           request is issued.

23           “(D) NOTICE.—Any recipient that dis-  
24           closes to a person described in subparagraph  
25           (A) information otherwise subject to a non-

1 disclosure requirement shall inform the person  
2 of the applicable nondisclosure requirement.

3 “(3) RIGHT TO JUDICIAL REVIEW.—

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

8 “(B) NOTIFICATION.—A request under  
9 subsection (a) shall state that if the recipient  
10 wishes to have a court review a nondisclosure  
11 requirement, the recipient shall notify the gov-  
12 ernment.

13 “(C) INITIATION OF PROCEEDINGS.—If a  
14 recipient of a request under subsection (a)  
15 makes a notification under subparagraph (B),  
16 the government shall initiate judicial review  
17 under the procedures established in section  
18 3511 of title 18, United States Code, unless an  
19 appropriate official of the government agency  
20 authorized to conduct investigations of, or intel-  
21 ligence or counterintelligence activities or anal-  
22 ysis related to, international terrorism makes a  
23 notification under paragraph (4).

24 “(4) TERMINATION.—In the case of any request  
25 for which a consumer reporting agency has sub-

1       mitted a notification under paragraph (3)(B), if the  
2       facts supporting a nondisclosure requirement cease  
3       to exist, an appropriate official of the government  
4       agency authorized to conduct investigations of, or in-  
5       telligence or counterintelligence activities or analysis  
6       related to, international terrorism shall promptly no-  
7       tify the consumer reporting agency, or officer, em-  
8       ployee, or agent thereof, subject to the nondisclosure  
9       requirement that the nondisclosure requirement is  
10      no longer in effect.”.

11      (d) FINANCIAL RECORDS.—Section 1114(a)(5) of the  
12      Right to Financial Privacy Act of 1978 (12 U.S.C.  
13      3414(a)(5)) is amended by striking subparagraph (D) and  
14      inserting the following:

15      “(D) PROHIBITION OF CERTAIN DISCLOSURE.—

16          “(i) PROHIBITION.—

17              “(I) IN GENERAL.—If a certification is  
18              issued under subclause (II) and notice of the  
19              right to judicial review under clause (iii) is pro-  
20              vided, no financial institution, or officer, em-  
21              ployee, or agent thereof, that receives a request  
22              under subparagraph (A), shall disclose to any  
23              person that the Federal Bureau of Investigation  
24              has sought or obtained access to information or  
25              records under subparagraph (A).

1           “(II) CERTIFICATION.—The requirements  
2 of subclause (I) shall apply if the Director of  
3 the Federal Bureau of Investigation, or a des-  
4 ignee of the Director whose rank shall be no  
5 lower than Deputy Assistant Director at Bu-  
6 reau headquarters or a Special Agent in Charge  
7 of a Bureau field office, certifies that, absent a  
8 prohibition of disclosure under this subpara-  
9 graph, there may result—

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

12                   “(bb) interference with a criminal,  
13 counterterrorism, or counterintelligence in-  
14 vestigation;

15                   “(cc) interference with diplomatic re-  
16 lations; or

17                   “(dd) danger to the life or physical  
18 safety of any person.

19           “(ii) EXCEPTION.—

20                   “(I) IN GENERAL.—A financial institution,  
21 or officer, employee, or agent thereof, that re-  
22 ceives a request under subparagraph (A) may  
23 disclose information otherwise subject to any  
24 applicable nondisclosure requirement to—

1           “(aa) those persons to whom disclo-  
2           sure is necessary in order to comply with  
3           the request;

4           “(bb) an attorney in order to obtain  
5           legal advice or assistance regarding the re-  
6           quest; or

7           “(cc) other persons as permitted by  
8           the Director of the Federal Bureau of In-  
9           vestigation or the designee of the Director.

10          “(II) PERSONS NECESSARY FOR COMPLI-  
11          ANCE.—Upon a request by the Director of the  
12          Federal Bureau of Investigation or the designee  
13          of the Director, those persons to whom disclo-  
14          sure will be made under subclause (I)(aa) or to  
15          whom such disclosure was made before the re-  
16          quest shall be identified to the Director or the  
17          designee.

18          “(III) NONDISCLOSURE REQUIREMENT.—  
19          A person to whom disclosure is made under  
20          subclause (I) shall be subject to the nondisclo-  
21          sure requirements applicable to a person to  
22          whom a request is issued under subparagraph  
23          (A) in the same manner as the person to whom  
24          the request is issued.

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

6           “(iii) RIGHT TO JUDICIAL REVIEW.—

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

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

16           “(III) INITIATION OF PROCEEDINGS.—If a  
17 recipient of a request under subparagraph (A)  
18 makes a notification under subclause (II), the  
19 Government shall initiate judicial review under  
20 the procedures established in section 3511 of  
21 title 18, United States Code, unless an appro-  
22 priate official of the Federal Bureau of Inves-  
23 tigation makes a notification under clause (iv).

24           “(iv) TERMINATION.—In the case of any re-  
25 quest for which a financial institution has submitted



1 a notification under clause (iii)(II), if the facts sup-  
2 porting a nondisclosure requirement cease to exist,  
3 an appropriate official of the Federal Bureau of In-  
4 vestigation shall promptly notify the financial insti-  
5 tution, or officer, employee, or agent thereof, subject  
6 to the nondisclosure requirement that the nondisclo-  
7 sure requirement is no longer in effect.”.

8 (e) REQUESTS BY AUTHORIZED INVESTIGATIVE  
9 AGENCIES.—Section 802 of the National Security Act of  
10 1947 (50 U.S.C. 436), is amended by striking subsection  
11 (b) and inserting the following:

12 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

13 “(1) PROHIBITION.—

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

24 “(B) CERTIFICATION.—The requirements  
25 of subparagraph (A) shall apply if the head of

1 an authorized investigative agency described in  
2 subsection (a), or a designee, certifies that, ab-  
3 sent a prohibition of disclosure under this sub-  
4 section, there may result—

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

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

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

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

14 “(2) EXCEPTION.—

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

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

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

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

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

16          “(C) NONDISCLOSURE REQUIREMENT.—A  
17          person to whom disclosure is made under sub-  
18          paragraph (A) shall be subject to the nondisclo-  
19          sure requirements applicable to a person to  
20          whom a request is issued under subsection (a)  
21          in the same manner as the person to whom the  
22          request is issued.

23          “(D) NOTICE.—Any recipient that dis-  
24          closes to a person described in subparagraph  
25          (A) information otherwise subject to a non-

1 disclosure requirement shall inform the person  
2 of the applicable nondisclosure requirement.

3 “(3) RIGHT TO JUDICIAL REVIEW.—

4 “(A) IN GENERAL.—A governmental or  
5 private entity that receives a request under sub-  
6 section (a) shall have the right to judicial re-  
7 view of any applicable nondisclosure require-  
8 ment.

9 “(B) NOTIFICATION.—A request under  
10 subsection (a) shall state that if the recipient  
11 wishes to have a court review a nondisclosure  
12 requirement, the recipient shall notify the Gov-  
13 ernment.

14 “(C) INITIATION OF PROCEEDINGS.—If a  
15 recipient of a request under subsection (a)  
16 makes a notification under subparagraph (B),  
17 the Government shall initiate judicial review  
18 under the procedures established in section  
19 3511 of title 18, United States Code, unless an  
20 appropriate official of the authorized investiga-  
21 tive agency described in subsection (a) makes a  
22 notification under paragraph (4).

23 “(4) TERMINATION.—In the case of any request  
24 for which a governmental or private entity has sub-  
25 mitted a notification under paragraph (3)(B), if the

1 facts supporting a nondisclosure requirement cease  
2 to exist, an appropriate official of the authorized in-  
3 vestigative agency described in subsection (a) shall  
4 promptly notify the governmental or private entity,  
5 or officer, employee, or agent thereof, subject to the  
6 nondisclosure requirement that the nondisclosure re-  
7 quirement is no longer in effect.”.

8 **SEC. 6. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL**  
9 **SECURITY LETTERS.**

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

13 (1) in subparagraph (A)—

14 (A) in clause (i)—

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

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

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

22 (2) in subparagraph (C)—

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

24 (B) by redesignating clause (iii) as clause  
25 (ii).

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

4 “(b) NONDISCLOSURE.—

5 “(1) IN GENERAL.—

6 “(A) NOTICE.—If a recipient of a request  
7 or order for a report, records, or other informa-  
8 tion under section 2709 of this title, section  
9 626 or 627 of the Fair Credit Reporting Act  
10 (15 U.S.C. 1681u and 1681v), section 1114 of  
11 the Right to Financial Privacy Act of 1978 (12  
12 U.S.C. 3414), or section 802 of the National  
13 Security Act of 1947 (50 U.S.C. 436), wishes  
14 to have a court review a nondisclosure require-  
15 ment imposed in connection with the request or  
16 order, the recipient shall notify the Govern-  
17 ment.

18 “(B) APPLICATION.—Not later than 30  
19 days after the date of receipt of a notification  
20 under subparagraph (A), the Government shall  
21 apply for an order prohibiting the disclosure of  
22 the existence or contents of the relevant request  
23 or order. An application under this subpara-  
24 graph may be filed in the district court of the  
25 United States for the judicial district in which

1 the recipient of the order is doing business or  
2 in the district court of the United States for  
3 any judicial district within which the authorized  
4 investigation that is the basis for the request or  
5 order is being conducted. The applicable non-  
6 disclosure requirement shall remain in effect  
7 during the pendency of proceedings relating to  
8 the requirement.

9 “(C) CONSIDERATION.—A district court of  
10 the United States that receives an application  
11 under subparagraph (B) should rule expedi-  
12 tiously, and shall, subject to paragraph (3),  
13 issue a nondisclosure order that includes condi-  
14 tions appropriate to the circumstances.

15 “(2) APPLICATION CONTENTS.—An application  
16 for a nondisclosure order or extension thereof under  
17 this subsection shall include a certification from the  
18 Attorney General, Deputy Attorney General, an As-  
19 sistant Attorney General, or the Director of the Fed-  
20 eral Bureau of Investigation, or in the case of a re-  
21 quest by a department, agency, or instrumentality of  
22 the Federal Government other than the Department  
23 of Justice, the head or deputy head of the depart-  
24 ment, agency, or instrumentality, containing a state-  
25 ment of specific facts indicating that, absent a pro-

1       hibition of disclosure under this subsection, there  
2       may result—

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

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

7               “(C) interference with diplomatic relations;  
8       or

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

11              “(3) STANDARD.—A district court of the  
12      United States shall issue a nondisclosure require-  
13      ment order or extension thereof under this sub-  
14      section if the court determines, giving substantial  
15      weight to the certification under paragraph (2) that  
16      there is reason to believe that disclosure of the infor-  
17      mation subject to the nondisclosure requirement dur-  
18      ing the applicable time period will result in—

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

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

23              “(C) interference with diplomatic relations;  
24      or



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

3           (c) MINIMIZATION.—Section 501(g)(1) of the For-  
4 eign Intelligence Surveillance Act of 1978 (50 U.S.C.  
5 1861(g)(1)) is amended by striking “Not later than” and  
6 all that follows and inserting “At or before the end of the  
7 period of time for the production of tangible things under  
8 an order approved under this section or at any time after  
9 the production of tangible things under an order approved  
10 under this section, a judge may assess compliance with  
11 the minimization procedures by reviewing the cir-  
12 cumstances under which information concerning United  
13 States persons was retained or disseminated.”.

14 **SEC. 7. CERTIFICATION FOR ACCESS TO TELEPHONE TOLL**  
15 **AND TRANSACTIONAL RECORDS.**

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

18                   (1) by striking subsection (e);

19                   (2) by redesignating subsections (c) and (d) as  
20 subsections (d) and (e), respectively; and

21                   (3) by inserting after subsection (b) the fol-  
22 lowing:

23           “(c) WRITTEN STATEMENT.—The Director of the  
24 Federal Bureau of Investigation, or a designee in a posi-  
25 tion not lower than Deputy Assistant Director at Bureau

1 headquarters or a Special Agent in Charge in a Bureau  
2 field office designated by the Director, may make a certifi-  
3 cation under subsection (b) only upon a written statement,  
4 which shall be retained by the Federal Bureau of Inves-  
5 tigation, of specific facts showing that there are reason-  
6 able grounds to believe that the information sought is rel-  
7 evant to the authorized investigation described in sub-  
8 section (b).”.

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

13 (1) by striking subsection (h);

14 (2) by redesignating subsections (d), (e), (f),  
15 and (g) as subsections (e), (f), (g), and (h), respec-  
16 tively; and

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

19 “(d) WRITTEN STATEMENT.—The Director of the  
20 Federal Bureau of Investigation, or a designee in a posi-  
21 tion not lower than Deputy Assistant Director at Bureau  
22 headquarters or a Special Agent in Charge in a Bureau  
23 field office designated by the Director, may make a certifi-  
24 cation under subsection (a) or (b) only upon a written  
25 statement, which shall be retained by the Federal Bureau

1 of Investigation, of specific facts showing that there are  
2 reasonable grounds to believe that the information sought  
3 is relevant to the authorized investigation described in  
4 subsection (a) or (b), as the case may be.”.

5 (c) DISCLOSURES TO GOVERNMENTAL AGENCIES  
6 FOR COUNTERTERRORISM PURPOSES.—Section 627(b) of  
7 the Fair Credit Reporting Act (15 U.S.C. 1681v(b)) is  
8 amended—

9 (1) in the subsection heading, by striking  
10 “FORM OF CERTIFICATION” and inserting “CER-  
11 TIFICATION”;

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

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

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

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

1 (d) FINANCIAL RECORDS.—Section 1114(a)(5) of the  
2 Right to Financial Privacy Act of 1978 (12 U.S.C.  
3 3414(a)(5)), as amended by this Act, is amended—

4 (1) by striking subparagraph (C);

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

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

9 “(B) The Director of the Federal Bureau of Inves-  
10 tigation, or a designee in a position not lower than Deputy  
11 Assistant Director at Bureau headquarters or a Special  
12 Agent in Charge in a Bureau field office designated by  
13 the Director, may make a certification under subpara-  
14 graph (A) only upon a written statement, which shall be  
15 retained by the Federal Bureau of Investigation, of spe-  
16 cific facts showing that there are reasonable grounds to  
17 believe that the information sought is relevant to the au-  
18 thorized investigation described in subparagraph (A).”.

19 (e) REQUESTS BY AUTHORIZED INVESTIGATIVE  
20 AGENCIES.—Section 802(a) of the National Security Act  
21 of 1947 (50 U.S.C. 436(a)) is amended by adding at the  
22 end the following:

23 “(4) A department or agency head, deputy depart-  
24 ment or agency head, or senior official described in para-  
25 graph (3)(A) may make a certification under paragraph

1 (3)(A) only upon a written statement, which shall be re-  
2 tained by the authorized investigative agency, of specific  
3 facts showing that there are reasonable grounds to believe  
4 that the information sought is relevant to the authorized  
5 inquiry or investigation described in paragraph  
6 (3)(A)(ii).”.

7 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

8 (1) OBSTRUCTION OF CRIMINAL INVESTIGA-  
9 TIONS.—Section 1510(e) of title 18, United States  
10 Code, is amended by striking “section 2709(c)(1) of  
11 this title, section 626(d)(1) or 627(c)(1) of the Fair  
12 Credit Reporting Act (15 U.S.C. 1681u(d)(1) or  
13 1681v(e)(1)), section 1114(a)(3)(A) or  
14 1114(a)(5)(D)(i) of the Right to Financial Privacy  
15 Act (12 U.S.C. 3414(a)(3)(A) or  
16 3414(a)(5)(D)(i)),” and inserting “section  
17 2709(d)(1) of this title, section 626(e)(1) or  
18 627(c)(1) of the Fair Credit Reporting Act (15  
19 U.S.C. 1681u(e)(1) and 1681v(c)(1)), section  
20 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to  
21 Financial Privacy Act of 1978 (12 U.S.C.  
22 3414(a)(3)(A) and 3414(a)(5)(D)(i)),”.

23 (2) SEMIANNUAL REPORTS.—Section 507(b) of  
24 the National Security Act of 1947 (50 U.S.C.  
25 415b(b)) is amended—

1 (A) by striking paragraphs (4) and (5);  
2 and  
3 (B) by redesignating paragraph (6) as  
4 paragraph (4).

5 **SEC. 8. PUBLIC REPORTING ON NATIONAL SECURITY LET-**  
6 **TERS.**

7 (a) IN GENERAL.—Section 118(c) of the USA PA-  
8 TRIOT Improvement and Reauthorization Act of 2005  
9 (18 U.S.C. 3511 note) is amended to read as follows:

10 “(c) REPORTS ON REQUESTS FOR NATIONAL SECUR-  
11 RITY LETTERS.—

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

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

14 “(i) with respect to the first report  
15 submitted under paragraph (2) or (3), the  
16 period beginning 180 days after the date  
17 of enactment of the USA PATRIOT Act  
18 Sunset Extension Act of 2011 and ending  
19 on December 31, 2011; and

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

1           “(B) the term ‘United States person’ has  
2 the meaning given that term in section 101 of  
3 the Foreign Intelligence Surveillance Act of  
4 1978 (50 U.S.C. 1801).

5           “(2) CLASSIFIED FORM.—

6           “(A) IN GENERAL.—Not later than Feb-  
7 ruary 1, 2012, and every 6 months thereafter,  
8 the Attorney General shall submit to the Select  
9 Committee on Intelligence, the Committee on  
10 the Judiciary, and the Committee on Banking,  
11 Housing, and Urban Affairs of the Senate and  
12 the Permanent Select Committee on Intel-  
13 ligence, the Committee on the Judiciary, and  
14 the Committee on Financial Services of the  
15 House of Representatives a report fully inform-  
16 ing the committees concerning the requests  
17 made under section 2709(a) of title 18, United  
18 States Code, section 1114(a)(5)(A) of the Right  
19 to Financial Privacy Act of 1978 (12 U.S.C.  
20 3414(a)(5)(A)), section 626 of the Fair Credit  
21 Reporting Act (15 U.S.C. 1681u), section 627  
22 of the Fair Credit Reporting Act (15 U.S.C.  
23 1681v), or section 802 of the National Security  
24 Act of 1947 (50 U.S.C. 436) during the appli-  
25 cable period.

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

4           “(i) the number of authorized re-  
5 quests under the provision, including re-  
6 quests for subscriber information; and

7           “(ii) the number of authorized re-  
8 quests under the provision—

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

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

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

15           “(aa) the subject of an au-  
16 thorized national security inves-  
17 tigation; or

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

23           “(IV) that relate to a person that  
24 is not known to be the subject of an  
25 authorized national security investiga-



1                   tion or to have been in contact with or  
2                   otherwise directly linked to the subject  
3                   of an authorized national security in-  
4                   vestigation.

5                   “(3) UNCLASSIFIED FORM.—

6                   “(A) IN GENERAL.—Not later than Feb-  
7                   ruary 1, 2012, and every 6 months thereafter,  
8                   the Attorney General shall submit to the Select  
9                   Committee on Intelligence, the Committee on  
10                  the Judiciary, and the Committee on Banking,  
11                  Housing, and Urban Affairs of the Senate and  
12                  the Permanent Select Committee on Intel-  
13                  ligence, the Committee on the Judiciary, and  
14                  the Committee on Financial Services of the  
15                  House of Representatives a report fully inform-  
16                  ing the committees concerning the aggregate  
17                  total of all requests identified under paragraph  
18                  (2) during the applicable period ending on the  
19                  last day of the second month before the date for  
20                  submission of the report. Each report under  
21                  this subparagraph shall be in unclassified form.

22                  “(B) CONTENTS.—Each report under sub-  
23                  paragraph (A) shall include the aggregate total  
24                  of requests—

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

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

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

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

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

12 “(iv) that relate to a person that is  
13 not known to be the subject of an author-  
14 ized national security investigation or to  
15 have been in contact with or otherwise di-  
16 rectly linked to the subject of an author-  
17 ized national security investigation.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
19 Section 627 of the Fair Credit Reporting Act (15 U.S.C.  
20 1681v) is amended by striking subsection (f).

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

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

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

2 “Not later than June 30, 2012, and every year there-  
3 after, the Attorney General, in consultation with the Di-  
4 rector of National Intelligence, and with due regard for  
5 the protection of classified information from unauthorized  
6 disclosure, shall submit to the Committee on the Judiciary  
7 and the Select Committee on Intelligence of the Senate  
8 and the Committee on the Judiciary and the Permanent  
9 Select Committee on Intelligence of the House of Rep-  
10 resentatives an unclassified report summarizing how the  
11 authorities under this Act are used, including the impact  
12 of the use of the authorities under this Act on the privacy  
13 of United States persons (as defined in section 101).”.

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

“Sec. 602. Annual unclassified report.”.

19 **SEC. 10. AUDITS.**

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

23 (1) in subsection (b)—

24 (A) in paragraph (1), by striking “2006”  
25 and inserting “2011”;

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

2 (C) by redesignating paragraphs (4) and

3 (5) as paragraphs (2) and (3), respectively; and

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

5 (i) by striking subparagraph (C) and

6 inserting the following:

7 “(C) with respect to calendar years 2007  
8 through 2011, an examination of the minimiza-  
9 tion procedures used in relation to orders under  
10 section 501 of the Foreign Intelligence Surveil-  
11 lance Act of 1978 (50 U.S.C. 1861) and wheth-  
12 er the minimization procedures protect the con-  
13 stitutional rights of United States persons.”;  
14 and

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

16 “(as such term is defined in section 3(4) of  
17 the National Security Act of 1947 (50  
18 U.S.C. 401a(4))”;

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

21 “(3) CALENDAR YEARS 2007, 2008, AND 2009.—

22 Not later than March 31, 2012, the Inspector Gen-  
23 eral of the Department of Justice shall submit to the  
24 Committee on the Judiciary and the Permanent Se-  
25 lect Committee on Intelligence of the House of Rep-

1 representatives and the Committee on the Judiciary and  
2 the Select Committee on Intelligence of the Senate  
3 a report containing the results of the audit con-  
4 ducted under subsection (a) for calendar years 2007,  
5 2008, and 2009.

6 “(4) CALENDAR YEARS 2010 AND 2011.—Not  
7 later than March 31, 2013, the Inspector General of  
8 the Department of Justice shall submit to the Com-  
9 mittee on the Judiciary and the Permanent Select  
10 Committee on Intelligence of the House of Rep-  
11 resentatives and the Committee on the Judiciary and  
12 the Select Committee on Intelligence of the Senate  
13 a report containing the results of the audit con-  
14 ducted under subsection (a) for calendar years 2010  
15 and 2011.”;

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

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

20 “(d) INTELLIGENCE ASSESSMENT.—

21 “(1) IN GENERAL.—For the period beginning  
22 on January 1, 2007 and ending on December 31,  
23 2011, the Inspector General of each element of the  
24 intelligence community outside of the Department of  
25 Justice that used information acquired under title V

1 of the Foreign Intelligence Surveillance Act of 1978  
2 (50 U.S.C. 1861 et seq.) in the intelligence activities  
3 of the element of the intelligence community shall—

4 “(A) assess the importance of the informa-  
5 tion to the intelligence activities of the element  
6 of the intelligence community;

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

11 “(C) describe any noteworthy facts or cir-  
12 cumstances relating to orders under title V of  
13 the Foreign Intelligence Surveillance Act of  
14 1978 as the orders relate to the element of the  
15 intelligence community; and

16 “(D) examine any minimization procedures  
17 used by the element of the intelligence commu-  
18 nity under title V of the Foreign Intelligence  
19 Surveillance Act of 1978 and whether the mini-  
20 mization procedures protect the constitutional  
21 rights of United States persons.

22 “(2) SUBMISSION DATES FOR ASSESSMENT.—

23 “(A) CALENDAR YEARS 2007 THROUGH  
24 2009.—Not later than March 31, 2012, the In-  
25 spector General of each element of the intel-

1 intelligence community that conducts an assessment  
2 under this subsection shall submit to the Com-  
3 mittee on the Judiciary and the Select Com-  
4 mittee on Intelligence of the Senate and the  
5 Committee on the Judiciary and the Permanent  
6 Select Committee on Intelligence of the House  
7 of Representative a report containing the re-  
8 sults of the assessment for calendar years 2007  
9 through 2009.

10 “(B) CALENDAR YEARS 2010 AND 2011.—  
11 Not later than March 31, 2013, the Inspector  
12 General of each element of the intelligence com-  
13 munity that conducts an assessment under this  
14 subsection shall submit to the Committee on the  
15 Judiciary and the Select Committee on Intel-  
16 ligence of the Senate and the Committee on the  
17 Judiciary and the Permanent Select Committee  
18 on Intelligence of the House of Representatives  
19 a report containing the results of the assess-  
20 ment for calendar years 2010 and 2011.”;

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

23 (A) in paragraph (1)—

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

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

8 (B) in paragraph (2), by striking “the re-  
9 ports submitted under subsection (c)(1) and  
10 (c)(2)” and inserting “any report submitted  
11 under subsection (c) or (d)”; and

12 (6) in subsection (f) as redesignated by para-  
13 graph (3)—

14 (A) by striking “The reports submitted  
15 under subsections (c)(1) and (c)(2)” and insert-  
16 ing “Each report submitted under subsection  
17 (c)”; and

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

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

21 “(g) DEFINITIONS.—In this section—

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



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

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

9           (1) in subsection (b)—

10           (A) in paragraph (1), by striking “2006”  
11 and inserting “2011”; and

12           (B) in paragraph (3)(C), by striking “(as  
13 such term is defined in section 3(4) of the Na-  
14 tional Security Act of 1947 (50 U.S.C.  
15 401a(4)))”;

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

18           “(3) CALENDAR YEARS 2007, 2008, AND 2009.—  
19 Not later than March 31, 2012, the Inspector Gen-  
20 eral of the Department of Justice shall submit to the  
21 Committee on the Judiciary and the Permanent Se-  
22 lect Committee on Intelligence of the House of Rep-  
23 resentatives and the Committee on the Judiciary and  
24 the Select Committee on Intelligence of the Senate  
25 a report containing the results of the audit con-

1       ducted under subsection (a) for calendar years 2007,  
2       2008, and 2009.

3           “(4) CALENDAR YEARS 2010 AND 2011.—Not  
4       later than March 31, 2013, the Inspector General of  
5       the Department of Justice shall submit to the Com-  
6       mittee on the Judiciary and the Permanent Select  
7       Committee on Intelligence of the House of Rep-  
8       resentatives and the Committee on the Judiciary and  
9       the Select Committee on Intelligence of the Senate  
10      a report containing the results of the audit con-  
11      ducted under subsection (a) for calendar years 2010  
12      and 2011.”;

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

15      “(h) DEFINITIONS.—In this section—

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

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

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

24           “(B) section 1114(a)(5)(A) of the Right to  
25      Financial Privacy Act of 1978 (12 U.S.C.

1           3414(a)(5)(A)) (to obtain financial institution  
2           customer records);

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

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

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

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

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

21          (5) by inserting after subsection (c) the fol-  
22          lowing:

23          “(d) INTELLIGENCE ASSESSMENT.—

24          “(1) IN GENERAL.—For the period beginning  
25          on January 1, 2007 and ending on December 31,

1 2011, the Inspector General of each element of the  
2 intelligence community outside of the Department of  
3 Justice that issued national security letters in the  
4 intelligence activities of the element of the intel-  
5 ligence community shall—

6 “(A) examine the use of national security  
7 letters by the element of the intelligence com-  
8 munity during the period;

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

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

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

22 “(2) SUBMISSION DATES FOR ASSESSMENT.—

23 “(A) CALENDAR YEARS 2007 THROUGH  
24 2009.—Not later than March 31, 2012, the In-  
25 spector General of each element of the intel-

1 intelligence community that conducts an assessment  
2 under this subsection shall submit to the Com-  
3 mittee on the Judiciary and the Select Com-  
4 mittee on Intelligence of the Senate and the  
5 Committee on the Judiciary and the Permanent  
6 Select Committee on Intelligence of the House  
7 of Representatives a report containing the re-  
8 sults of the assessment for calendar years 2007  
9 through 2009.

10 “(B) CALENDAR YEARS 2010 AND 2011.—

11 Not later than March 31, 2013, the Inspector  
12 General of any element of the intelligence com-  
13 munity that conducts an assessment under this  
14 subsection shall submit to the Committee on the  
15 Judiciary and the Select Committee on Intel-  
16 ligence of the Senate and the Committee on the  
17 Judiciary and the Permanent Select Committee  
18 on Intelligence of the House of Representatives  
19 a report containing the results of the assess-  
20 ment for calendar years 2010 and 2011.”;

21 (6) in subsection (e), as redesignated by para-  
22 graph (4)—

23 (A) in paragraph (1)—

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

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

8 (B) in paragraph (2), by striking “the re-  
9 ports submitted under subsection (c)(1) or  
10 (c)(2)” and inserting “any report submitted  
11 under subsection (c) or (d)”; and

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

14 (A) by striking “The reports submitted  
15 under subsections (c)(1) or (c)(2)” and insert-  
16 ing “Each report submitted under subsection  
17 (c)”; and

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

20 (c) PEN REGISTERS AND TRAP AND TRACE DE-  
21 VICES.—

22 (1) AUDITS.—The Inspector General of the De-  
23 partment of Justice shall perform comprehensive au-  
24 dits of the effectiveness and use, including any im-  
25 proper or illegal use, of pen registers and trap and

1 trace devices under title IV of the Foreign Intel-  
2 ligence Surveillance Act of 1978 (50 U.S.C. 1841 et  
3 seq.) during the period beginning on January 1,  
4 2007 and ending on December 31, 2011.

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

7 (A) an examination of the use of pen reg-  
8 isters and trap and trace devices under title IV  
9 of the Foreign Intelligence Surveillance Act of  
10 1978 for calendar years 2007 through 2011;

11 (B) an examination of the installation and  
12 use of a pen register or trap and trace device  
13 on emergency bases under section 403 of the  
14 Foreign Intelligence Surveillance Act of 1978  
15 (50 U.S.C. 1843);

16 (C) any noteworthy facts or circumstances  
17 relating to the use of a pen register or trap and  
18 trace device under title IV of the Foreign Intel-  
19 ligence Surveillance Act of 1978, including any  
20 improper or illegal use of the authority provided  
21 under that title; and

22 (D) an examination of the effectiveness of  
23 the authority under title IV of the Foreign In-  
24 telligence Surveillance Act of 1978 as an inves-  
25 tigative tool, including—

1 (i) the importance of the information  
2 acquired to the intelligence activities of the  
3 Federal Bureau of Investigation;

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

12 (iii) with respect to calendar years  
13 2010 and 2011, an examination of the  
14 minimization procedures of the Federal  
15 Bureau of Investigation used in relation to  
16 pen registers and trap and trace devices  
17 under title IV of the Foreign Intelligence  
18 Surveillance Act of 1978 and whether the  
19 minimization procedures protect the con-  
20 stitutional rights of United States persons;

21 (iv) whether, and how often, the Fed-  
22 eral Bureau of Investigation used informa-  
23 tion acquired under a pen register or trap  
24 and trace device under title IV of the For-  
25 eign Intelligence Surveillance Act of 1978



1 to produce an analytical intelligence prod-  
2 uct for distribution within the Federal Bu-  
3 reau of Investigation, to the intelligence  
4 community, or to another department,  
5 agency, or instrumentality of Federal,  
6 State, local, or tribal governments; and

7 (v) whether, and how often, the Fed-  
8 eral Bureau of Investigation provided in-  
9 formation acquired under a pen register or  
10 trap and trace device under title IV of the  
11 Foreign Intelligence Surveillance Act of  
12 1978 to law enforcement authorities for  
13 use in criminal proceedings.

14 (3) SUBMISSION DATES.—

15 (A) CALENDAR YEARS 2007 THROUGH  
16 2009.—Not later than March 31, 2012, the In-  
17 spector General of the Department of Justice  
18 shall submit to the Committee on the Judiciary  
19 and the Select Committee on Intelligence of the  
20 Senate and the Committee on the Judiciary and  
21 the Permanent Select Committee on Intelligence  
22 of the House of Representatives a report con-  
23 taining the results of the audits conducted  
24 under paragraph (1) for calendar years 2007  
25 through 2009.

(B) CALENDAR YEARS 2010 AND 2011.—

1  
2 Not later than March 31, 2013, the Inspector  
3 General of the Department of Justice shall sub-  
4 mit to the Committee on the Judiciary and the  
5 Select Committee on Intelligence of the Senate  
6 and the Committee on the Judiciary and the  
7 Permanent Select Committee on Intelligence of  
8 the House of Representatives a report con-  
9 taining the results of the audits conducted  
10 under paragraph (1) for calendar years 2010  
11 and 2011.

12 (4) INTELLIGENCE ASSESSMENT.—

13 (A) IN GENERAL.—For the period begin-  
14 ning January 1, 2007 and ending on December  
15 31, 2011, the Inspector General of any element  
16 of the intelligence community outside of the De-  
17 partment of Justice that used information ac-  
18 quired under a pen register or trap and trace  
19 device under title IV of the Foreign Intelligence  
20 Surveillance Act of 1978 in the intelligence ac-  
21 tivities of the element of the intelligence com-  
22 munity shall—

23 (i) assess the importance of the infor-  
24 mation to the intelligence activities of the  
25 element of the intelligence community;

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

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

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

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

19 (i) CALENDAR YEARS 2007 THROUGH  
20 2009.—Not later than March 31, 2012, the  
21 Inspector General of each element of the  
22 intelligence community that conducts an  
23 assessment under this paragraph shall sub-  
24 mit to the Committee on the Judiciary and  
25 the Select Committee on Intelligence of the

1 Senate and the Committee on the Judici-  
2 ary and the Permanent Select Committee  
3 on Intelligence of the House of Represent-  
4 ative a report containing the results of the  
5 assessment for calendar years 2007  
6 through 2009.

7 (ii) CALENDAR YEARS 2010 AND  
8 2011.—Not later than March 31, 2013, the  
9 Inspector General of each element of the  
10 intelligence community that conducts an  
11 assessment under this paragraph shall sub-  
12 mit to the Committee on the Judiciary and  
13 the Select Committee on Intelligence of the  
14 Senate and the Committee on the Judici-  
15 ary and the Permanent Select Committee  
16 on Intelligence of the House of Represent-  
17 ative a report containing the results of the  
18 assessment for calendar years 2010 and  
19 2011.

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

23 (A) NOTICE.—Not later than 30 days be-  
24 fore the submission of any report paragraph (3)  
25 or (4), the Inspector General of the Department

1 of Justice and any Inspector General of an ele-  
2 ment of the intelligence community that sub-  
3 mits a report under this subsection shall pro-  
4 vide the report to the Attorney General and the  
5 Director of National Intelligence.

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

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

17 (d) DEFINITIONS.—In this section—

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

23 (2) the term “intelligence community” has the  
24 meaning given that term in section 3 of the National  
25 Security Act of 1947 (50 U.S.C. 401a).

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

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

4 **SEC. 12. PROCEDURES.**

5 (a) **IN GENERAL.**—The Attorney General shall peri-  
6 odically review, and revise as necessary, the procedures  
7 adopted by the Attorney General on October 1, 2010 for  
8 the collection, use, and storage of information obtained in  
9 response to a national security letter issued under section  
10 2709 of title 18, United States Code, section 1114(a)(5)  
11 of the Right to Financial Privacy Act of 1978 (12 U.S.C.  
12 3414(5)), section 626 of the Fair Credit Reporting Act  
13 (15 U.S.C. 1681u), or section 627 of the Fair Credit Re-  
14 porting Act (15 U.S.C. 1681v).

15 (b) **CONSIDERATIONS.**—In reviewing and revising the  
16 procedures described in subsection (a), the Attorney Gen-  
17 eral shall give due consideration to the privacy interests  
18 of individuals and the need to protect national security.

19 (c) **REVISIONS TO PROCEDURES AND OVERSIGHT.**—  
20 If the Attorney General makes any significant changes to  
21 the procedures described in subsection (a), the Attorney  
22 General shall notify and submit a copy of the changes to  
23 the Committee on the Judiciary and the Select Committee  
24 on Intelligence of the Senate and the Committee on the  
25 Judiciary and the Permanent Select Committee on Intel-  
26 ligence of the House of Representatives.

1 **SEC. 13. SEVERABILITY.**

2 If any provision of this Act or an amendment made  
3 by this Act, or the application of the provision to any per-  
4 son or circumstance, is held to be unconstitutional, the  
5 remainder of this Act and the amendments made by this  
6 Act, and the application of the provisions of this Act and  
7 the amendments made by this Act to any other person  
8 or circumstance, shall not be affected thereby.

9 **SEC. 14. OFFSET.**

10 Of the unobligated balances available in the Depart-  
11 ment of Justice Assets Forfeiture Fund established under  
12 section 524(c)(1) of title 28, United States Code,  
13 \$5,000,000 are permanently rescinded and shall be re-  
14 turned to the general fund of the Treasury.

15 **SEC. 15. ELECTRONIC SURVEILLANCE.**

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

19 **SEC. 16. EFFECTIVE DATE.**

20 The amendments made by sections 3, 4, 5, 6, 7, and  
21 11 shall take effect on the date that is 120 days after  
22 the date of enactment of this Act.

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