

Calendar No. 18

112TH CONGRESS
1ST SESSION

S. 193

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

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2011

Mr. LEAHY introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

MARCH 17, 2011

Reported by Mr. LEAHY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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 “~~February, 28, 2011~~
 6 *May 27, 2011*” and 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 FISA*
22 *Amendments Act of 2008 (Public Law 110–261; 50*
23 *U.S.C. 1881 note) is amended by striking “December*
24 *31, 2012” and inserting “December 31, 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 note)*
 8 *is amended in the heading by striking “DECEMBER*
 9 *31, 2012” and inserting “DECEMBER 31, 2013”.*

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

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

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

18 (2) in subsection (b)(2)—

19 (A) in subparagraph (A)—

20 (i) by striking “a statement of facts
 21 showing” and inserting “a statement of
 22 the facts and circumstances relied upon by
 23 the applicant to justify the belief of the ap-
 24 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 are the circula-~~
8 ~~tion records or patron lists of a library (as de-~~
9 ~~fin ed in section 213(1) of the Library Services~~
10 ~~and Technology Act (20 U.S.C. 9122(1)), a~~
11 ~~statement of facts showing that there are rea-~~
12 ~~sonable grounds to believe that the records~~
13 ~~sought—~~

14 “*(B) if the records sought contain bookseller*
15 ~~records, or are from a library and contain per-~~
16 ~~sonally identifiable information about a patron~~
17 ~~of the library, a statement of facts showing that~~
18 ~~there are reasonable grounds to believe that the~~
19 ~~records sought—~~

20 “(i) are relevant to an authorized in-
21 vestigation (other than a threat assess-
22 ment) conducted in accordance with sub-
23 section (a)(2) to obtain foreign intelligence
24 information not concerning a United
25 States person or to protect against inter-

1 national terrorism or clandestine intel-
2 ligence activities; and

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

5 “(II) are relevant to the activities of
6 a suspected agent of a foreign power who
7 is the subject of such authorized investiga-
8 tion; or

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

12 “(C) a statement of proposed minimization
13 procedures.”; ~~and~~

14 (3) in subsection (c)(1)—

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

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

22 (C) by striking the second sentence; *and*

23 (4) *by adding at the end the following:*

24 “(i) *DEFINITIONS.—In this section—*

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

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

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

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

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

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) DEFINITIONS.—Title V of the Foreign In-
25 telligence Surveillance Act of 1978 (50 U.S.C. 1861

1 et seq.) is amended by adding at the end the fol-
 2 lowing:

3 **“SEC. 503. DEFINITIONS.**

4 “In this title, the terms ‘Attorney General’, ‘foreign
 5 intelligence information’, ‘international terrorism’, ‘per-
 6 son’, ‘United States’, and ‘United States person’ have the
 7 meanings given such terms in section 101.”.

8 (2) **TITLE HEADING.**—Title V of the Foreign
 9 Intelligence Surveillance Act of 1978 (50 U.S.C.
 10 1861 et seq.) is amended in the title heading by in-
 11 serting “**AND OTHER TANGIBLE THINGS**”
 12 after “**CERTAIN BUSINESS RECORDS**”.

13 (3) **TABLE OF CONTENTS.**—The table of con-
 14 tents in the first section of the Foreign Intelligence
 15 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
 16 is amended—

17 (A) by striking the items relating to title
 18 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.”;

19 and

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

“Sec. 503. Definitions.”.

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

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

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

9 (2) in paragraph (2)—

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

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

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

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

20 (b) MINIMIZATION.—

21 (1) DEFINITION.—Section 401 of the Foreign
22 Intelligence Surveillance Act of 1978 (50 U.S.C.
23 1841) is amended by adding at the end the fol-
24 lowing:

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

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

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

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

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

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

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

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

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

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

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

1 (A) by redesignating subsection (c) as sub-
2 section (d); and

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

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

10 (4) USE OF INFORMATION.—Section 405(a)(1)
11 of the Foreign Intelligence Surveillance Act of 1978
12 (50 U.S.C. 1845(a)(1)) is amended by striking “pro-
13 visions of this section” and inserting “minimization
14 procedures required under this title”.

15 (c) TRANSITION PROCEDURES.—

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

23 (2) EXTENSIONS.—A request for an extension
24 of an order referred to in paragraph (1) shall be
25 subject to the requirements of the Foreign Intel-

1 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
2 seq.), as amended by this Act.

3 **SEC. 5. LIMITATIONS ON DISCLOSURE OF NATIONAL SECU-**
4 **RITY LETTERS.**

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

8 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

9 “(1) PROHIBITION.—

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

20 “(B) CERTIFICATION.—The requirements
21 of subparagraph (A) shall apply if the Director
22 of the Federal Bureau of Investigation, or a
23 designee of the Director whose rank shall be no
24 lower than Deputy Assistant Director at Bu-
25reau headquarters or a Special Agent in Charge

1 of a Bureau field office, certifies that, absent a
2 prohibition of disclosure under this subsection,
3 there may result—

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

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

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

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

13 “(2) EXCEPTION.—

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

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

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

1 “(iii) other persons as permitted by
2 the Director of the Federal Bureau of In-
3 vestigation or the designee of the Director.

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

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

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

24 “(3) RIGHT TO JUDICIAL REVIEW.—

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

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

11 “(C) INITIATION OF PROCEEDINGS.—If a
12 recipient of a request under subsection (a)
13 makes a notification under subparagraph (B),
14 the Government shall initiate judicial review
15 under the procedures established in section
16 3511 of this title, unless an appropriate official
17 of the Federal Bureau of the Investigation
18 makes a notification under paragraph (4).

19 “(4) TERMINATION.—In the case of any request
20 for which a recipient has submitted a notification
21 under paragraph (3)(B), if the facts supporting a
22 nondisclosure requirement cease to exist, an appro-
23 priate official of the Federal Bureau of Investigation
24 shall promptly notify the wire or electronic service
25 provider, or officer, employee, or agent thereof, sub-

1 ject to the nondisclosure requirement that the non-
2 disclosure requirement is no longer in effect.”.

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

7 “(d) 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 or order under subsection (a), (b), or
15 (c), shall disclose or specify in any consumer re-
16 port, that the Federal Bureau of Investigation
17 has sought or obtained access to information or
18 records under subsection (a), (b), or (c).

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

1 prohibition of disclosure under this subsection,
2 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 or order under sub-
16 section (a), (b), or (c) may disclose information
17 otherwise subject to any applicable nondisclo-
18 sure requirement to—

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

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

1 “(iii) other persons as permitted by
2 the Director of the Federal Bureau of In-
3 vestigation or the designee of the Director.

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

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

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

25 “(3) RIGHT TO JUDICIAL REVIEW.—

1 “(A) IN GENERAL.—A consumer reporting
2 agency that receives a request or order under
3 subsection (a), (b), or (c) shall have the right
4 to judicial review of any applicable nondisclo-
5 sure requirement.

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

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

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

1 consumer reporting agency, or officer, employee, or
2 agent thereof, subject to the nondisclosure require-
3 ment that the nondisclosure requirement is no longer
4 in effect.”.

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

9 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

10 “(1) PROHIBITION.—

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

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

1 national terrorism, or a designee, certifies that,
2 absent a prohibition of disclosure under this
3 subsection, there may result—

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

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

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

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

13 “(2) EXCEPTION.—

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

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

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

1 “(iii) other persons as permitted by
2 the head of the government agency author-
3 ized to conduct investigations of, or intel-
4 ligence or counterintelligence activities or
5 analysis related to, international terrorism,
6 or a designee.

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

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

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

6 “(3) RIGHT TO JUDICIAL REVIEW.—

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

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

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

1 ysis related to, international terrorism makes a
2 notification under paragraph (4).

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

15 (d) FINANCIAL RECORDS.—Section 1114(a)(5) of the
16 Right to Financial Privacy Act of 1978 (12 U.S.C.
17 3414(a)(5)) is amended by striking subparagraph (D) and
18 inserting the following:

19 “(D) PROHIBITION OF CERTAIN DISCLOSURE.—

20 “(i) PROHIBITION.—

21 “(I) IN GENERAL.—If a certification is
22 issued under subclause (II) and notice of the
23 right to judicial review under clause (iii) is pro-
24 vided, no financial institution, or officer, em-
25 ployee, or agent thereof, that receives a request

1 under subparagraph (A), shall disclose to any
2 person that the Federal Bureau of Investigation
3 has sought or obtained access to information or
4 records under subparagraph (A).

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

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

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

19 “(cc) interference with diplomatic re-
20 lations; or

21 “(dd) danger to the life or physical
22 safety of any person.

23 “(ii) EXCEPTION.—

24 “(I) IN GENERAL.—A financial institution,
25 or officer, employee, or agent thereof, that re-

1 ceives a request under subparagraph (A) may
2 disclose information otherwise subject to any
3 applicable nondisclosure requirement to—

4 “(aa) those persons to whom disclo-
5 sure is necessary in order to comply with
6 the request;

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

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

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

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

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

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

8 “(iii) RIGHT TO JUDICIAL REVIEW.—

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

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

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

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

10 (e) REQUESTS BY AUTHORIZED INVESTIGATIVE
11 AGENCIES.—Section 802 of the National Security Act of
12 1947 (50 U.S.C. 436), is amended by striking subsection
13 (b) and inserting the following:

14 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

15 “(1) PROHIBITION.—

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

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

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

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

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

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

16 “(2) EXCEPTION.—

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

23 “(i) those persons to whom disclosure
24 is necessary in order to comply with the re-
25 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 and articulable facts indicating that,

1 absent a prohibition of disclosure under this sub-
2 section, there 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 ~~September 30, 2011~~ *March 31, 2012*,

23 the Inspector General of the Department of Justice

24 shall submit to the Committee on the Judiciary and

25 the Permanent Select Committee on Intelligence of

1 the House of Representatives and the Committee on
2 the Judiciary and the Select Committee on Intel-
3 ligence of the Senate a report containing the results
4 of the audit conducted under subsection (a) for cal-
5 endar years 2007, 2008, and 2009.

6 “(4) CALENDAR YEARS 2010 AND 2011.—Not
7 later than ~~December 31, 2012~~ *March 31, 2013*, the
8 Inspector General of the Department of Justice shall
9 submit to the Committee on the Judiciary and the
10 Permanent Select Committee on Intelligence of the
11 House of Representatives and the Committee on the
12 Judiciary and the Select Committee on Intelligence
13 of the Senate a report containing the results of the
14 audit conducted under subsection (a) for calendar
15 years 2010 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 ~~September 30, 2011~~
25 *March 31, 2012*, the Inspector General of each

1 element of the intelligence community that con-
2 ducts an assessment under this subsection shall
3 submit to the Committee on the Judiciary and
4 the Select Committee on Intelligence of the
5 Senate and the Committee on the Judiciary and
6 the Permanent Select Committee on Intelligence
7 of the House of Representative a report con-
8 taining the results of the assessment for cal-
9 endar years 2007 through 2009.

10 “(B) CALENDAR YEARS 2010 AND 2011.—
11 Not later than ~~December 31, 2012~~ *March 31,*
12 *2013*, the Inspector General of each element of
13 the intelligence community that conducts an as-
14 sessment under this subsection shall submit to
15 the Committee on the Judiciary and the Select
16 Committee on Intelligence of the Senate and
17 the Committee on the Judiciary and the Perma-
18 nent Select Committee on Intelligence of the
19 House of Representatives a report containing
20 the results of the assessment for calendar years
21 2010 and 2011.”;

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

24 (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 ~~September 30, 2011~~ *March 31, 2012*,
20 the Inspector General of the Department of Justice
21 shall submit to the Committee on the Judiciary and
22 the Permanent Select Committee on Intelligence of
23 the House of Representatives and the Committee on
24 the Judiciary and the Select Committee on Intel-
25 ligence of the Senate a report containing the results

1 of the audit conducted under subsection (a) for cal-
2 endar years 2007, 2008, and 2009.

3 “(4) CALENDAR YEARS 2010 AND 2011.—Not
4 later than ~~December 31, 2012~~ *March 31, 2013*, the
5 Inspector General of the Department of Justice shall
6 submit to the Committee on the Judiciary and the
7 Permanent Select Committee on Intelligence of the
8 House of Representatives and the Committee on the
9 Judiciary and the Select Committee on Intelligence
10 of the Senate a report containing the results of the
11 audit conducted under subsection (a) for calendar
12 years 2010 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 ~~September 30, 2011~~
25 *March 31, 2012*, the Inspector General of each

1 element of the intelligence community that con-
2 ducts an assessment under this subsection shall
3 submit to the Committee on the Judiciary and
4 the Select Committee on Intelligence of the
5 Senate and the Committee on the Judiciary and
6 the Permanent Select Committee on Intelligence
7 of the House of Representatives a report con-
8 taining the results of the assessment for cal-
9 endar years 2007 through 2009.

10 “(B) CALENDAR YEARS 2010 AND 2011.—
11 Not later than ~~December 31, 2012~~ *March 31,*
12 *2013*, the Inspector General of any element of
13 the intelligence community that conducts an as-
14 sessment under this subsection shall submit to
15 the Committee on the Judiciary and the Select
16 Committee on Intelligence of the Senate and
17 the Committee on the Judiciary and the Perma-
18 nent Select Committee on Intelligence of the
19 House of Representatives a report containing
20 the results of the assessment for calendar years
21 2010 and 2011.”;

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

24 (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 ~~September 30, 2011~~
17 *March 31, 2012*, the Inspector General of the
18 Department of Justice shall submit to the Com-
19 mittee on the Judiciary and the Select Com-
20 mittee on Intelligence of the Senate and the
21 Committee on the Judiciary and the Permanent
22 Select Committee on Intelligence of the House
23 of Representatives a report containing the re-
24 sults of the audits conducted under paragraph
25 (1) for calendar years 2007 through 2009.

1 (B) CALENDAR YEARS 2010 AND 2011.—
2 Not later than ~~December 31, 2012~~ *March 31,*
3 *2013*, the Inspector General of the Department
4 of Justice shall submit to the Committee on the
5 Judiciary and the Select Committee on Intel-
6 ligence of the Senate and the Committee on the
7 Judiciary and the Permanent Select Committee
8 on Intelligence of the House of Representatives
9 a report containing the results of the audits
10 conducted under paragraph (1) for calendar
11 years 2010 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 ~~September 30, 2011~~
21 *March 31, 2012*, the Inspector General of
22 each element of the intelligence community
23 that conducts an assessment under this
24 paragraph shall submit to the Committee
25 on the Judiciary and the Select Committee

1 on Intelligence of the Senate and the Com-
2 mittee on the Judiciary and the Permanent
3 Select Committee on Intelligence of the
4 House of Representative a report con-
5 taining the results of the assessment for
6 calendar years 2007 through 2009.

7 (ii) CALENDAR YEARS 2010 AND
8 2011.—Not later than ~~December 31, 2012~~
9 *March 31, 2013*, the Inspector General of
10 each element of the intelligence community
11 that conducts an assessment under this
12 paragraph shall submit to the Committee
13 on the Judiciary and the Select Committee
14 on Intelligence of the Senate and the Com-
15 mittee on the Judiciary and the Permanent
16 Select Committee on Intelligence of the
17 House of Representative a report con-
18 taining the results of the assessment for
19 calendar years 2010 and 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 amended*
18 *by inserting “with particularity” after “description”.*

19 **SEC. 16. DEATH PENALTY FOR CERTAIN TERROR RELATED**
20 **CRIMES.**

21 *(a) PARTICIPATION IN NUCLEAR AND WEAPONS OF*
22 *MASS DESTRUCTION THREATS TO THE UNITED STATES.—*
23 *Section 832(c) of title 18, United States Code, is amended*
24 *by inserting “punished by death if death results to any per-*
25 *son from the offense, or” after “shall be”.*

1 (b) *MISSILE SYSTEMS TO DESTROY AIRCRAFT.*—Section
2 tion 2332g(c)(3) of title 18, United States Code, is amended
3 by inserting “punished by death or” after “shall be”.

4 (c) *ATOMIC WEAPONS.*—The last sentence of section
5 222 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2272)
6 is amended by inserting “death or” before “imprisonment
7 for life” the last place it appears.

8 (d) *RADIOLOGICAL DISPERSAL DEVICES.*—Section
9 2332h(c)(3) of title 18, United States Code, is amended by
10 inserting “death or” before “imprisonment for life”.

11 (e) *VARIOLA VIRUS.*—Section 175c(c)(3) of title 18,
12 United States Code, is amended by inserting “death or” be-
13 fore “imprisonment for life”.

14 **SEC. 1517. EFFECTIVE DATE.**

15 The amendments made by sections 3, 4, 5, 6, 7, and
16 11 shall take effect on the date that is 120 days after
17 the date of enactment of this Act.

Calendar No. 18

112TH CONGRESS
1ST Session

S. 193

A BILL

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

March 17, 2011

Reported with amendments