To consolidate the congressional oversight provisions of the Foreign Intelligence Surveillance Act of 1978 and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN, from the Select Committee on Intelligence, reported the following original bill; which was read twice and placed on the calendar

A BILL

To consolidate the congressional oversight provisions of the Foreign Intelligence Surveillance Act of 1978 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 “FISA Improvements

5 Act of 2013”.

SEC. 2. SUPPLEMENTAL PROCEDURES FOR ACQUISITION
OF CERTAIN BUSINESS RECORDS FOR
COUNTERTERRORISM PURPOSES.

(a) SUPPLEMENTAL PROCEDURES FOR ACQUISITION
OF CERTAIN BUSINESS RECORDS FOR INTERNATIONAL
TERRORISM INVESTIGATIONS.—Section 501 of the For-

gn Intelligence Surveillance Act of 1978 (50 U.S.C.
1861) is amended by adding at the end the following:

“(i) GENERAL PROHIBITION ON BULK COLLECTION
OF COMMUNICATION RECORDS.—No order issued pursu-

ant to an application made under subsection (a) may au-

thorize the acquisition in bulk of wire communication or
electronic communication records from an entity that pro-
vides an electronic communication service to the public if
such order does not name or otherwise identify either indi-

viduals or facilities, unless such order complies with the
supplemental procedures under subsection (j).

“(j) AUTHORIZATION FOR BULK COLLECTION OF
NON-CONTENT METADATA.—

“(1) SUPPLEMENTAL PROCEDURES.—Any order
directed to the Government under subsection (a)
that authorizes the acquisition in bulk of wire com-
munication or electronic communication records,
which shall not include the content of such commu-
nications, shall be subject to supplemental proce-
dures, which are in addition to any other requirements or procedures imposed by this Act, as follows:

“(A) CONTENT PROHIBITION.—Such an order shall not authorize the acquisition of the content of any communication.

“(B) AUTHORIZATION AND RENEWAL PERIODS.—Such an order—

“(i) shall be effective for a period of not more than 90 days; and

“(ii) may be extended by the court on the same basis as an original order upon an application under this title for an extension and new findings by the court in accordance with subsection (c).

“(C) SECURITY PROCEDURES FOR ACQUIRED DATA.—Information acquired pursuant to such an order (other than information properly returned in response to a query under subparagraph (D)(iii)) shall be retained by the Government in accordance with security procedures approved by the court in a manner designed to ensure that only authorized personnel will have access to the information in the manner prescribed by this section and the court’s order.
“(D) Limited access to data.—Access to information retained in accordance with the procedures described in subparagraph (C) shall be prohibited, except for access—

“(i) to perform a query using a selector for which a recorded determination has been made that there is a reasonable articulable suspicion that the selector is associated with international terrorism or activities in preparation therefor;

“(ii) to return information as authorized under paragraph (3); or

“(iii) as may be necessary for technical assurance, data management or compliance purposes, or for the purpose of narrowing the results of queries, in which case no information produced pursuant to the order may be accessed, used, or disclosed for any other purpose, unless the information is responsive to a query authorized under paragraph (3).

“(2) Record requirement.—

“(A) Determination.—For any determination made pursuant to paragraph (1)(D)(i), a record shall be retained of the se-
lector, the identity of the individual who made
the determination, the date and time of the de-
termination, and the information indicating
that, at the time of the determination, there
was a reasonable articulable suspicion that the
selector was associated with international ter-
rorism or activities in preparation therefor.

“(B) QUERY.—For any query performed
pursuant to paragraph (1)(D)(i), a record shall
be retained of the identity of the individual who
made the query, the date and time of the query,
and the selector used to perform the query.

“(3) SCOPE OF PERMISSIBLE QUERY RETURN
INFORMATION.—For any query performed pursuant
to paragraph (1)(D)(i), the query only may return
information concerning communications—

“(A) to or from the selector used to per-
form the query;

“(B) to or from a selector in commuника-
tion with the selector used to perform the
query; or

“(C) to or from any selector reasonably
linked to the selector used to perform the
query, in accordance with the court approved
minimization procedures required under subsection (g).

“(4) Limits on personnel authorized to make determinations or perform queries.—A court order issued pursuant to an application made under subsection (a), and subject to the requirements of this subsection, shall impose strict, reasonable limits, consistent with operational needs, on the number of Government personnel authorized to make a determination or perform a query pursuant to paragraph (1)(D)(i). The Director of National Intelligence shall ensure that each such personnel receives comprehensive training on the applicable laws, policies, and procedures governing such determinations and queries prior to exercising such authority.

“(5) Automated reporting.—

“(A) Requirement for automated reporting.—The Director of the National Intelligence, in consultation with the head of the agency responsible for acquisitions pursuant to orders subject to the requirements of this subsection, shall establish a technical procedure whereby the aggregate number of queries performed pursuant to this subsection in the previous quarter shall be recorded automatically,
and subsequently reported to the appropriate committees of Congress.

“(B) Availability upon request.—The information reported under subparagraph (A) shall be available to each of the following upon request:

“(i) The Inspector General of the National Security Agency.

“(ii) The Inspector General of the Intelligence Community.

“(iii) The Inspector General of the Department of Justice.

“(iv) Appropriate officials of the Department of Justice.

“(v) Appropriate officials of the National Security Agency.

“(vi) The Privacy and Civil Liberties Oversight Board.

“(6) Court review of records.—

“(A) Requirement to provide records.—In accordance with minimization procedures required by subsection (g), and subject to subparagraph (B), a copy of each record for a determination prepared pursuant to para-
graph (2)(A) shall be promptly provided to the court established under section 103(a).

“(B) Records associated with United States persons.—In accordance with minimization procedures required by subsection (g), a copy of each record for a determination prepared pursuant to paragraph (2)(A) that is reasonably believed to be associated with a particular, known United States person shall be promptly provided the court established under section 103(a), but no more than 7 days after the determination.

“(C) Remedy for improper determinations.—If the court finds that the record of the determination indicates the determination did not meet the requirements of this section or is otherwise unlawful, the court may order that production of records under the applicable order be terminated or modified, that the information returned in response to queries using the selector identified in the determination be destroyed, or another appropriate remedy.

“(7) Record retention and query restrictions.—
“(A) Record retention.—All records and information produced pursuant to an order subject to this subsection, other than the results of queries as described in paragraph (3), shall be retained no longer than 5 years from the date of acquisition.

“(B) Query restrictions.—The Government shall not query any data acquired under this subsection and retained in accordance with the procedures described in paragraph (1)(C) more than 3 years after such data was acquired unless the Attorney General determines that the query meets the standard set forth in paragraph (1)(D)(i).

“(8) Congressional oversight.—A copy of each order issued pursuant to an application made under subsection (a), and subject to the requirements of this subsection, shall be provided to the appropriate committees of Congress.

“(9) Definitions.—In this subsection:

“(A) Appropriate committees of Congress.—The term ‘appropriate committees of Congress’ means—
“(i) the Committee on the Judiciary and the Select Committee on Intelligence of the Senate; and

“(ii) the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

“(B) CONTENT.—The term ‘content’, with respect to a communication—

“(i) means any information concerning the substance, purport, or meaning of that communication; and

“(ii) does not include any dialing, routing, addressing, signaling information.

“(C) ELECTRONIC COMMUNICATION.—The term ‘electronic communication’ has the meaning given that term in section 2510 of title 18, United States Code.

“(D) ELECTRONIC COMMUNICATION SERVICE.—The term ‘electronic communication service’ has the meaning given that term in section 2510 of title 18, United States Code.

“(E) SELECTOR.—The term ‘selector’ means an identifier, such as a phone number or
11 electronic account identifier, that is associated
with a particular communicant or facility.

“(F) UNITED STATES PERSON.—The term
‘United States person’ has the meaning given
that term in section 101 of this Act.

“(G) WIRE COMMUNICATION.—The term
‘wire communication’ has the meaning given
that term in section 2510 of title 18, United
States Code.”.

(b) ANNUAL UNCLASSIFIED REPORT.—Section
502(c)(1) of the Foreign Intelligence Surveillance Act of
1978 (50 U.S.C. 1862(c)(1)) is amended—

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

(2) in subparagraph (B), by striking the period
at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) for each order subject to the supplemental
procedures under section 501(j)—

“(i) the number of unique selectors for
which a recorded determination has been made
under section 501(j)(1)(D)(i) that reasonable
articulable suspicion exists that the selector is
associated with international terrorism or ac-
tivities in preparation therefor;
“(ii) the aggregate number of queries performed pursuant to such section;

“(iii) the aggregate number of investigative leads developed as a direct result of any query performed pursuant to subsection (j)(1)(D)(i); and

“(iv) the aggregate number of warrants or court orders, based upon a showing of probable cause, issued pursuant to title I or III of this Act or chapter 119, 121, or 205 of title 18, United States Code, in response to applications for such warrants or court orders containing information produced by such queries.”.

SEC. 3. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED ACCESS TO COLLECTED DATA.

Section 1030 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) in paragraph (5)(C), by striking the period at the end and inserting a semicolon;

(B) in paragraph (7)(C), by adding “or” at the end; and

(C) by inserting after paragraph (7)(C) the following:
“(8) accesses a computer without authorization or exceeds authorized access and thereby obtains information from any department or agency of the United States knowing or having reason to know that such computer was operated by or on behalf of the United States and that such information was acquired by the United States pursuant to the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.) pursuant to an order issued by a court established under section 103 of that Act (50 U.S.C. 1803).”.

(2) Subsection (c) is amended—

(A) in paragraph (4)(G)(ii), by striking the period at the end and inserting a semicolon and “or”; and

(B) by adding at the end the following:

“(5) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(8) of this section.”.

SEC. 4. APPOINTMENT OF AMICUS CURIAE.

Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following:

“(i) AMICUS CURIAE.—
“(1) AUTHORIZATION.—Notwithstanding any other provision of law, a court established under subsection (a) or (b) is authorized, consistent with the requirement of subsection (c) and any other statutory requirement that the court act expeditiously or within a stated time, to appoint amicus curiae to assist the court in the consideration of a covered application.

“(2) DEFINITIONS.—In this subsection:

“(A) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(i) the Committee on the Judiciary and the Select Committee on Intelligence of the Senate; and

“(ii) the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

“(B) COVERED APPLICATION.—The term ‘covered application’ means an application for an order or review made to a court established under subsection (a) or (b)—
“(i) that, in the opinion of such a court, presents a novel or significant interpretation of the law; and

“(ii) that is—

“(I) an application for an order under this title, title III, IV, or V of this Act, or section 703 or 704 of this Act;

“(II) a review of a certification or procedures under section 702 of this Act; or

“(III) a notice of non-compliance with any such order, certification, or procedures.

“(3) DESIGNATION.—The courts established by subsection (a) and (b) shall each designate 1 or more individuals who have been determined by appropriate executive branch officials to be eligible for access to classified national security information, including sensitive compartmented information, who may be appointed to serve as amicus curiae. In appointing an amicus curiae pursuant to paragraph (1), the court may choose from among those so designated.
“(4) EXPERTISE.—An individual appointed as an amicus curiae under paragraph (1) may be a special counsel or an expert on privacy and civil liberties, intelligence collection, telecommunications, or any other area that may lend legal or technical expertise to the court.

“(5) DUTIES.—An amicus curiae appointed under paragraph (1) to assist with the consideration of a covered application shall carry out the duties assigned by the appointing court. That court may authorize, to the extent consistent with the case or controversy requirements of Article III of the Constitution of the United States and the national security of the United States, the amicus curiae to review any application, certification, petition, motion, or other submission that the court determines is relevant to the duties assigned by the court.

“(6) NOTIFICATION.—A court established under subsection (a) or (b) shall notify the Attorney General of each exercise of the authority to appoint an amicus curiae under paragraph (1).

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

“(8) Administration.—A court established under subsection (a) or (b) may provide for the designation, appointment, removal, training, support, or other administration of an amicus curiae appointed under paragraph (1) in a manner that is not inconsistent with this subsection.

“(9) Congressional oversight.—The Attorney General shall submit to the appropriate committees of Congress an annual report on the number of notices described in paragraph (6) received by Attorney General for the preceding 12-month period.”


(a) Repeal of Congressional Oversight Provisions.—


(2) Table of Contents Amended.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 is amended by

(b) Semiannual Report of the Attorney General.—Section 601 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended to read as follows:

“SEC. 601. SEMIANNUAL REPORT OF THE ATTORNEY GENERAL.

“(a) In General.—

“(1) Information.—On a semiannual basis, the Attorney General shall submit to the appropriate committees of Congress a report pursuant to paragraph (2) concerning all electronic surveillance, physical searches, and uses of pen registers and trap and trace devices conducted under this Act.

“(2) Report.—The report required by paragraph (1) shall include the following:

“(A) Electronic Surveillance.—The total number of—

“(i) applications made for orders approving electronic surveillance under this Act;

“(ii) such orders either granted, modified, or denied;
“(iii) proposed applications for orders for electronic surveillance submitted pursuant to Rule 9(a) of the Rules of Procedure for the Foreign Intelligence Surveillance Court, or any successor rule, that are not formally presented in the form of a final application under Rule 9(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court, or any successor rule;

“(iv) named United States person targets of electronic surveillance;

“(v) emergency authorizations of electronic surveillance granted under this Act and the total number of subsequent orders approving or denying such electronic surveillance; and

“(vi) new compliance incidents arising from electronic surveillance under this Act.

“(B) PHYSICAL SEARCHES.—The total number of—

“(i) applications made for orders approving physical search under this Act;

“(ii) such orders either granted, modified, or denied;
“(iii) proposed applications for orders for physical searches submitted pursuant to Rule 9(a) of the Rules of Procedure for the Foreign Intelligence Surveillance Court, or any successor rule, that are not formally presented in the form of a final application under Rule 9(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court, or any successor rule;

“(iv) named United States person targets of physical searches;

“(v) emergency authorizations of physical searches granted under this Act and the total number of subsequent orders approving or denying such physical searches; and

“(vi) new compliance incidents arising from physical searches under this Act.

“(C) PEN REGISTER AND TRAP AND TRACE DEVICES.—The total number of—

“(i) applications made for orders approving the use of pen registers or trap and trace devices under this Act;

“(ii) such orders either granted, modified, or denied;
“(iii) proposed applications for orders
for pen registers or trap and trace devices
submitted pursuant to Rule 9(a) of the
Rules of Procedure for the Foreign Inte-
ligence Surveillance Court, or any suc-
cessor rule, that are not formally presented
in the form of a final application under
Rule 9(b) of the Rules of Procedure for the
Foreign Intelligence Surveillance Court, or
any successor rule;

“(iv) named United States person tar-
gets of pen registers or trap and trace de-
vices;

“(v) emergency authorizations of the
use of pen registers or trap and trace de-
vices granted under this Act and the total
number of subsequent orders approving or
denying such use of pen registers or trap
and trace devices; and

“(vi) new compliance incidents arising
from the use of pen registers or trap and
trace devices under this Act.

“(D) COMPLIANCE INCIDENTS.—A sum-
mary of each compliance incident reported
under subparagraphs (A)(vi), (B)(vi), and (C)(vi).

“(E) SIGNIFICANT LEGAL INTERPRETATIONS.—A summary of significant legal interpretations of this Act involving matters before the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review, including interpretations presented in applications or pleadings filed with the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review.

“(b) SUBMISSIONS OF SIGNIFICANT DECISIONS, ORDERS, AND OPINIONS.—The Attorney General shall submit to the appropriate committees of Congress a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes a significant construction or interpretation of any provision of this Act, and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued.

“(c) PROTECTION OF NATIONAL SECURITY.—The Director of National Intelligence, in consultation with the Attorney General, may authorize redactions of materials
described in subsection (b) that are provided to the appropriate committees of Congress if such redactions are necessary to protect properly classified information.

“(d) Availability to Members of Congress.—Consistent with the rules and practices of the Senate and the House of Representatives, each report submitted pursuant to subsection (a)(2) and each submission made pursuant to subsection (b) shall be made available to every member of Congress, subject to appropriate procedures for the storage and handling of classified information.

“(e) Public Report.—

“(1) In general.—Subject to paragraph (2), the Attorney General, in consultation with the Director of National Intelligence, shall make available to the public an unclassified annual summary of the reports submitted under subsection (a) that, to the maximum extent practicable consistent with the protection of classified information, includes the information contained in the report submitted pursuant to subsection (a)(2).

“(2) Minimum requirements.—In each report made available to the public under paragraph (1), the Attorney General shall include, at a minimum, the information required under subpara-
graphs (A), (B), and (C) of subsection (a)(2), which may be presented as annual totals.

“(f) CONSTRUCTION.—Nothing in this title may be construed to limit the authority and responsibility of an appropriate committee of Congress to obtain any information required by such committee to carry out its functions and duties.

“(g) DEFINITIONS.—In this section:

“(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(A) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

“(B) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

“(2) ELECTRONIC SURVEILLANCE.—The term ‘electronic surveillance’ has the meaning given that term in section 101 of this Act.

“(3) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term ‘Foreign Intelligence Surveillance Court’ means the court established under section 103(a) of this Act.
“(4) Foreign intelligence surveillance court of review.—The term ‘Foreign Intelligence Surveillance Court of Review’ means the court established under section 103(b) of this Act.

“(5) Pen register.—The term ‘pen register’ has the meaning given that term in section 401 of this Act.

“(6) Physical search.—The term ‘physical search’ has the meaning given that term in section 301 of this Act.

“(7) Trap and trace device.—The term ‘trap and trace device’ has the meaning given that term in section 401 of this Act.

“(8) United States person.—The term ‘United States person’ has the meaning given that term in section 101 of this Act.”.

(c) Availability or reports and submissions.—

(1) In general.—Title VI of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871) is amended by adding after section 601 the following:

“SEC. 602. AVAILABILITY OF REPORTS AND SUBMISSIONS.

“(a) Availability to Members of Congress.—Consistent with the rules and practices of the Senate and the House of Representatives, each submission to Con-
gress made pursuant to section 502(b), 702(l)(1), or 707 shall be made available, to every member of Congress, subject to appropriate procedures for the storage and handling of classified information.

“(b) PUBLIC REPORT.—The Attorney General or the Director of National Intelligence, as appropriate, shall make available to the public unclassified reports that, to the maximum extent practicable consistent with the protection of classified information, include the information contained in each submission to Congress made pursuant to section 502(b), 702(l)(1), or 707.”.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 is amended by inserting after the item relating to section 601 the following:

“Sec. 602. Availability of reports and submissions.”.

SEC. 6. RESTRICTIONS ON QUERYING THE CONTENTS OF CERTAIN COMMUNICATIONS.

Section 702 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a) is amended by adding at the end the following:

“(m) QUERIES.—

“(1) LIMITATION ON QUERY TERMS THAT IDENTIFY A UNITED STATES PERSON.—A query of the contents of communications acquired under this

...
section with a selector known to be used by a United States person may be conducted by personnel of elements of the Intelligence Community only if the purpose of the query is to obtain foreign intelligence information or information necessary to understand foreign intelligence information or to assess its importance.

“(2) RECORD.—

“(A) IN GENERAL.—For any query performed pursuant to paragraph (1) a record shall be retained of the identity of the Government personnel who performed the query, the date and time of the query, and the information indicating that the purpose of the query was to obtain foreign intelligence information or information necessary to understand foreign intelligence information or to assess its importance.

“(B) AVAILABILITY.—Each record prepared pursuant to subparagraph (A) shall be made available to the Department of Justice, the Office of the Director of National Intelligence, appropriate Inspectors General, the Foreign Intelligence Surveillance Court, and the appropriate committees of Congress.
“(3) CONSTRUCTION.—Nothing in this sub-
section may be construed—

“(A) to prohibit access to data collected
under this section as may be necessary for tech-
nical assurance, data management or compli-
ance purposes, or for the purpose of narrowing
the results of queries, in which case no informa-
tion produced pursuant to the order may be
accessed, used, or disclosed other than for such
purposes;

“(B) to limit the authority of a law en-
forcement agency to conduct a query for law
enforcement purposes of the contents of com-
munications acquired under this section; or

“(C) to limit the authority of an agency to
conduct a query for the purpose of preventing
a threat to life or serious bodily harm to any
person.

“(4) DEFINITIONS.—In this subsection:

“(A) APPROPRIATE COMMITTEES OF CON-
gress.—The term ‘appropriate committees of
Congress’ means—

“(i) the Select Committee on Intel-
ligence and the Committee on the Judici-
ary of the Senate; and
“(ii) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Represen-
tatives.”.

“(B) CONTENT.—The term ‘content’, with respect to a communication—

“(i) means any information con-
cerning the substance, purport, or meaning of that communication; and

“(ii) does not include any dialing, routing, addressing, or signaling inform-
ation.

“(C) SELECTOR.—The term ‘selector’ means an identifier, such as a phone number or electronic account identifier, that is associated with a particular communicant or facility.”.

SEC. 7. TEMPORARY TARGETING OF PERSONS OTHER THAN UNITED STATES PERSONS TRAVELING INTO THE UNITED STATES.

(a) IN GENERAL.—Section 105 of the Foreign Intel-
ligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respec-
tively; and
(2) by inserting after subsection (e) the follow-

“(f)(1) Notwithstanding any other provision of this Act, acquisition of foreign intelligence information by target-

getting a non-United States person reasonably believed to be located outside the United States that was lawfully ini-
tiated by an element of the intelligence community may continue for a transitional period not to exceed 72 hours from the time when it is recognized that the non-United States person is reasonably believed to be located inside the United States and that the acquisition is subject to this title or title III of this Act, provided that the head of the element determines that there exists an exigent cir-
cumstance and—

“(A) there is reason to believe that the target of the acquisition has communicated or received or will communicate or receive foreign intelligence in-
formation relevant to the exigent circumstance; and

“(B) it is determined that a request for emer-
gency authorization from the Attorney General in accordance with the terms of this Act is impracti-
cable in light of the exigent circumstance.

“(2) The Director of National Intelligence or the head of an element of the intelligence community shall promptly notify the Attorney General of the decision to
exercise the authority under this section and shall request emergency authorization from the Attorney General pursuant to this Act as soon as practicable, to the extent such request is warranted by the facts and circumstances.

“(3) Subject to subparagraph (4), the authority under this section to continue acquisition of foreign intelligence information is limited to 72 hours. However, if the Attorney General authorizes an emergency acquisition pursuant to this Act, then acquisition of foreign intelligence information may continue for the period of time that the Attorney General’s emergency authorization or any subsequent court order authorizing the acquisition remains in effect.

“(4) The authority to acquire foreign intelligence information under this subsection shall terminate upon any of the following, whichever occurs first—

“(A) 72 hours have elapsed since the commencement of the transitional period;

“(B) the Attorney General has directed that the acquisition be terminated; or

“(C) the exigent circumstance is no longer reasonably believed to exist.

“(5) If the Attorney General authorizes an emergency authorization during the transitional period, the acquisition of foreign intelligence shall continue during any tran-
sition to, and consistent with, the Attorney General emer-
gency authorization or court order.

“(6) Any information of or concerning unconsenting
United States persons acquired during the transitional pe-
riod may only be disseminated during the transitional pe-
riod if necessary to investigate, prevent, reduce, or elimi-
nate the exigent circumstance or if it indicates a threat
of death or serious bodily harm to any person.

“(7) In the event that during the transition period
a request for an emergency authorization from the Attor-
ey General pursuant to this Act for continued acquisition
of foreign intelligence is not approved or an order from
a court is not obtained to continue the acquisition, inform-
ation obtained during the transitional period shall not
be retained, except with the approval of the Attorney Gen-
eral if the information indicates a threat of death or seri-
ous bodily harm to any person.

“(8) The Attorney General shall assess compliance
with the requirements of paragraph (7).”.

(b) NOTIFICATION OF EMERGENCY EMPLOYMENT OF
ELECTRONIC SURVEILLANCE.—Section 106(j) of the For-
egn Intelligence Surveillance Act of 1978 (50 U.S.C.
1806(j)) is amended by striking “section 105(e)” and in-
serting “subsection (e) or (f) of section 105”.
SEC. 8. CONFIRMATION OF APPOINTMENT OF THE DIRECTOR OF THE NATIONAL SECURITY AGENCY.

(a) D IRECTOR OF THE NATIONAL SECURITY AGENCY.—Section 2 of the National Security Agency Act of 1959 (50 U.S.C. 3602) is amended—

(1) by inserting “(b)” before “There”; and

(2) by inserting before subsection (b), as so designated by paragraph (1), the following:

“(a)(1) There is a Director of the National Security Agency.

“(2) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate.

“(3) The Director of the National Security Agency shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this Act or otherwise by law or executive order.”.

(b) P OSITION OF IMPORTANCE AND RESPONSIBILITY.—The President may designate the Director of the National Security Agency as a position of importance and responsibility under section 601 of title 10, United States Code.

(c) E FECTIVE DATE AND APPLICABILITY.—

(1) I N GENERAL.—The amendments made by subsection (a) shall take effect on the date of the en-
actment of this Act and shall apply upon the earlier of—

(A) the date of the nomination by the President of an individual to serve as the Director of the National Security Agency, except that the individual serving as such Director as of the date of the enactment of this Act may continue to perform such duties after such date of nomination and until the individual appointed as such Director, by and with the advice and consent of the Senate, assumes the duties of such Director; or

(B) the date of the cessation of the performance of the duties of such Director by the individual performing such duties as of the date of the enactment of this Act.

(2) Positions of importance and responsibility.—Subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9. PRESIDENTIAL APPOINTMENT AND SENATE CONFIRMATION OF THE INSPECTOR GENERAL OF THE NATIONAL SECURITY AGENCY.

(a) In General.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—
(1) in section 8G(a)(2), by striking “the National Security Agency,”; and

(2) in section 12—

(A) in paragraph (1), by striking “or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code” and inserting “the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; or the Director of the National Security Agency”; and

(B) in paragraph (2), by striking “or the Commissions established under section 15301 of title 40, United States Code” and inserting “the Commissions established under section 15301 of title 40, United States Code, or the National Security Agency”.

(b) EFFECTIVE DATE; INCUMBENT.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date on which the first Director of the National Security Agency takes office on or after the date of the enactment of this Act.

(2) INCUMBENT.—The individual serving as Inspector General of the National Security Agency on
the date of the enactment of this Act shall be eligible
to be appointed by the President to a new term of
service under section 3 of the Inspector General Act
of 1978 (5 U.S.C. App.), by and with the advice and
consent of the Senate.

SEC. 10. ANNUAL REPORTS ON VIOLATIONS OF LAW OR EX-
ECUTIVE ORDER.

(a) IN GENERAL.—Title V of the National Security
Act of 1947 (50 U.S.C. 3091 et seq.) is amended by add-
ing at the end the following:

“SEC. 509. ANNUAL REPORT ON VIOLATIONS OF LAW OR EX-
ECUTIVE ORDER.

“(a) ANNUAL REPORTS REQUIRED.—Not later than
April 1 of each year, the Director of National Intelligence
shall submit to the congressional intelligence committees
a report on violations of law or executive order by per-
sonnel of an element of the intelligence community that
were identified during the previous calendar year.

“(b) ELEMENTS.—Each report required subsection
(a) shall include a description of any violation of law or
executive order (including Executive Order No. 12333 (50
U.S.C. 3001 note)) by personnel of an element of the intel-
ligence community in the course of such employment that,
during the previous calendar year, was determined by the
director, head, general counsel, or inspector general of any
element of the intelligence community to have occurred.”

(b) CLERICAL AMENDMENT.—The table of sections
in the first section of the National Security Act of 1947
is amended by adding after the section relating to section
508 the following:

“Sec. 509. Annual report on violations of law or executive order.”.

SEC. 11. PERIODIC REVIEW OF INTELLIGENCE COMMUNITY

PROCEDURES FOR THE ACQUISITION, RETEN-
TION, AND DISSEMINATION OF INTEL-
LIGENCE.

(a) IN GENERAL.—Title V of the National Security
Act of 1947 (50 U.S.C. 3091 et seq.), as amended by sec-
tion 10, is further amended by adding at the end the fol-
lowing:

“SEC. 510. PERIODIC REVIEW OF INTELLIGENCE COMMU-
NITY PROCEDURES FOR THE ACQUISITION,
RETENTION, AND DISSEMINATION OF INTEL-
LIGENCE.

“(a) HEAD OF AN ELEMENT OF THE INTELLIGENCE
COMMUNITY DEFINED.—In this section, the term ‘head
of an element of the intelligence community’ means, as
appropriate—

“(1) the head of an element of the intelligence
community; or
“(2) the head of the department or agency containing such element.

“(b) Review of Procedures Approved by the Attorney General.—

“(1) Requirement for immediate review.—Each head of an element of the intelligence community that has not obtained the approval of the Attorney General for the procedures, in their entirety, required by section 2.3 of Executive Order 12333 (50 U.S.C. 3001 note) within 5 years prior to the date of the enactment of the FISA Improvements Act of 2013, shall initiate, not later than 180 days after such date of enactment, a review of the procedures for such element, in accordance with paragraph (3).

“(2) Requirement for review.—Not less frequently than once every 5 years, each head of an element of the intelligence community shall conduct a review of the procedures approved by the Attorney General for such element that are required by section 2.3 of Executive Order 12333 (50 U.S.C. 3001 note), or any successor order, in accordance with paragraph (3).

“(3) Requirements for reviews.—In coordination with the Director of National Intelligence and
the Attorney General, the head of an element of the intelligence community required to perform a review under paragraphs (1) or (2) shall—

“(A) review existing procedures for such element that are required by section 2.3 of Executive Order 12333 (50 U.S.C. 3001 note), or any successor order, to assess whether—

“(i) advances in communications or other technologies since the time the procedures were most recently approved by the Attorney General have affected the privacy protections that the procedures afford to United States persons, to include the protections afforded to United States persons whose nonpublic communications are incidentally acquired by an element of the intelligence community; or

“(ii) aspects of the existing procedures impair the acquisition, retention, or dissemination of timely, accurate, and insightful information about the activities, capabilities, plans, and intentions of foreign powers, organization, and persons, and their agents; and
“(B) propose any modifications to existing procedures for such element in order to—

“(i) clarify the guidance such procedures afford to officials responsible for the acquisition, retention, and dissemination of intelligence;

“(ii) eliminate unnecessary impediments to the acquisition, retention, and dissemination of intelligence; or

“(iii) ensure appropriate protections for the privacy of United States persons and persons located inside the United States.

“(4) NOTICE.—The Director of National Intelligence and the Attorney General shall notify the congressional intelligence committees following the completion of each review required under this section.

“(5) REQUIREMENT TO PROVIDE PROCEDURES.—Upon the implementation of any modifications to procedures required by section 2.3 of Executive Order 12333 (50 U.S.C. 3001 note), or any successor order, the head of the element of the intelligence community to which the modified procedures apply shall promptly provide a copy of the modified
procedures to the congressional intelligence committees.”.

(b) Clerical Amendment.—The table of sections in the first section of the National Security Act of 1947, as amended by section 10, is further amended by adding after the section relating to section 509 the following:

“Sec. 510. Periodic review of intelligence community procedures for the acquisition, retention, and dissemination of intelligence.”.

SEC. 12. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD ENHANCEMENTS RELATING TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) Definitions.—In this section:

(1) Appropriate Official.—The term “appropriate official” means the appropriate official of an agency or department of the United States who is responsible for preparing or submitting a covered application.

(2) Board.—The term “Board” means the Privacy and Civil Liberties Oversight Board established in section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee).

(3) Covered Application.—The term “covered application” means a submission to a FISA Court—

(A) that—
(i) presents a novel or significant interpretation of the law; and

(ii) relates to efforts to protect the United States from terrorism; and

(B) that is—

(i) a final application for an order under title I, III, IV, or V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or section 703 or 704 of that Act (50 U.S.C. 1881b and 1881c);

(ii) a review of a certification or procedure under section 702 of that Act (50 U.S.C. 1881a); or

(iii) a notice of non-compliance with such an order, certification, or procedures.

(4) FISA COURT.—The term “FISA Court” means a court established under subsection (a) or (b) of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803).

(b) NOTICE OF SUBMISSIONS AND ORDERS.—

(1) SUBMISSION TO FISA COURT.—Notwithstanding any provision of section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803), if a covered application is filed with a FISA Court, the appropriate official shall provide such
covered application to the Board not later than the
date of such filing, provided the provision of such
covered application does not delay any filing with a
FISA Court.

(2) FISA COURT ORDERS.—Notwithstanding
any provision of section 103 of the Foreign Intelli-
the appropriate official shall provide to the Board
each order of a FISA Court related to a covered ap-
lication.

(c) DISCRETIONARY ASSESSMENT OF THE BOARD.—

(1) NOTICE OF DECISION TO CONDUCT ASSESS-
MENT.—Upon receipt of a covered application under
subsection (b)(1), the Board shall—

(A) elect whether to conduct the assess-
ment described in paragraph (3); and

(B) submit to the appropriate official a no-
tice of the Board’s election under subparagraph
(A).

(2) TIMELY SUBMISSION.—The Board shall in
a timely manner prepare and submit to the appro-
priate official—

(A) the notice described in paragraph
(1)(B); and
(B) the associated assessment, if the Board elects to conduct such an assessment.

(3) CONTENT.—An assessment of a covered application prepared by the Board shall address whether the covered application is balanced with the need to protect privacy and civil liberties, including adequate supervision and guidelines to ensure protection of privacy and civil liberties.

(d) ANNUAL REVIEW.—The Board shall conduct an annual review of the activities of the National Security Agency related to information collection under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(e) PROVISION OF COMMUNICATIONS SERVICES AND OFFICE SPACE TO CERTAIN MEMBERS OF PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is amended by adding at the end the following:

“(5) PROVISION OF COMMUNICATIONS SERVICES AND OFFICE SPACE.—The Director of National Intelligence shall provide to each member of the Board who resides more than 100 miles from the District of Columbia such communications services and office space as may be necessary for the member to access
and use classified information. Such services and office space shall be located at an existing secure government or contractor facility located within the vicinity of such member’s place of residence.”.