H.R. 3361, the USA FREEDOM Act
Amendment in the Nature of a Substitute
Section-by-Section

Title I – FISA Business Record Reforms

Sec. 101 – Additional requirements for call detail records.

Creates a new process for the collection of call detail records pursuant to the Administration’s proposal. For counterterrorism purposes only, when the government has reasonable articulable suspicion that a specific selection term is associated with a foreign power or an agent of a foreign power, it may apply to the FISA court for an order requiring the ongoing production of call detail records related to that specific selection term and two “hops” removed. The government may renew these orders every 180 days.

The term “call detail records” is defined to mean a telephone number, an IMSI or IMSEI number, a telephone calling card number, or the time or duration of a call. The term does not include the contents of any communication; nor does it includes names, addresses, or financial information; nor does it include cell site location information.

Except for records that remain relevant to an authorized counterterrorism investigation, the government is required to destroy all information obtained under this program within five years of production.

Sec. 102 – Emergency authority.

Creates a new emergency authority for the use of Section 215. The Attorney General may authorize the emergency production of tangible things, provided that such an application is presented to the court within seven days. If the court denies an emergency application, the government may not use any of the information obtained under the emergency authority except in instances of a threat of death or serious bodily harm.

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

Provides that Section 215 may only be used where a specific selection term is provided as the basis for the production of tangible things. No order issued under Section 215 may authorize the bulk collection of tangible things.

Sec. 104 – Judicial review of minimization procedures for the production of tangible things.

Provides that the court may evaluate the adequacy of minimization procedures under Section 215. Under current law, the court is only empowered to determine whether or not the government has minimization procedures in place.
Sec. 105 – Liability protection.

Amends the liability protections to third parties who provide information, facilities, or technical assistance to the government in compliance with an order issued under Section 215. This provision mirrors the liability provisions in Titles I and VII of FISA.

Sec. 106 – Compensation for assistance.

Explicitly permits the government to compensate third parties for producing tangible things or providing information, facilities, or assistance in accordance with an order issue under Section 215.

Sec. 107 – Inspector general reports on business records orders.

Requires the Inspector General of the Department of Justice to conduct a comprehensive review of the use of Section 215 with respect to calendar years 2012 to 2014. Also requires the Inspector General of the Intelligence Community to assess the value and use of intelligence obtained under Section 215 over the same period.

Sec. 108 – Effective date.

Provides that the new telephone metadata program, the new Section 215 emergency authority, and the prohibition on bulk collection of tangible things under Section 215 take effect 180 days after enactment.

Title II – FISA Pen Register and Trap and Trace Device Reform

Sec. 201 – Prohibition on bulk collection.

Provides that the pen register and trap and trace device authority may not be used without a specific selection term as the basis for selecting the telephone line or other facility to which the pen register or trap and trace devices is to be attached or applied.

Sec. 202 – Minimization procedures.

Requires that the government adopt procedures that are reasonably designed to minimize the retention and prohibit the dissemination of nonpublic information about United States persons. Explicitly authorizes the court to assess compliance with these procedures while a pen register or trap and trace device is in use.

Title III – FISA Acquisitions Targeting Persons Outside the United States Reforms

Sec. 301 – Prohibition on reverse targeting.
Clarifies the prohibition on reverse targeting by providing that the government may not intentionally target a person under Section 702 if a purpose of the acquisition is to target a person reasonably believed to be in the United States.

**Sec. 302 – Minimization procedures.**

Codifies the requirement that the government must minimize the acquisition, and prohibit the retention and dissemination of, wholly domestic communications captured under Section 702.

**Sec. 303 – Limits on use of unlawfully obtained information.**

Provides that the government may not use information acquired outside the scope of court-approved targeting and minimization procedures.

**Title IV – Foreign Intelligence Surveillance Court Reforms**

**Sec. 401 – Appointment of amicus curiae.**

Provides that both the FISA court and the FISA Court of Review shall, if deemed appropriate, appoint an individual to serve as amicus curiae in a case involving a novel or significant interpretation of law. Permits the court to appoint amicus curiae in any case.

The presiding judges of the courts will designate five individuals who are eligible to serve as amicus curiae. These individuals shall possess expertise in privacy and civil liberties, intelligence collection, telecommunications, or any other area of law that may lend legal or technical expertise to the courts, and shall possess appropriate security clearances.

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

Requires the Attorney General to conduct a declassification review of each decision, order, or opinion of the FISA court that includes a significant construction or interpretation of law. In the interest of national security, the Attorney General may provide a summary of the decision rather than a declassified copy.

**Title V – National Security Letter Reform**

**Sec. 501 – Prohibition on bulk collection.**

Prohibits the use of various national security letter authorities without the use of a specific selection term as the basis for the national security letter request.

**Title VI – FISA Transparency and Reporting Requirements**

**Sec. 601 – Additional reporting on orders requiring production of business records.**
In addition to existing annual reporting requirements, requires the government to report on the number of requests made for call detail records under the new telephone metadata program.

**Sec. 602 – Business records compliance reports to Congress.**

Requires the government to provide to Congress any compliance reports related to the use of Section 215.

**Sec. 603 – Annual report by the Director of the Administrative Office of the United States Courts on orders Entered.**

Requires the Director of the Administrative Office of the United States Court to make an annual report on the number of orders issued under sections 105, 304, 402, 501, 702, 703, and 704 of FISA, as well as the number of appointments of individuals to serve as amicus curiae to the FISA court.

**Sec. 604 – Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.**

Requires the Attorney General to provide to the relevant committees, within 45 days of each decision, order, or opinion that includes a significant construction or interpretation, a copy of each such decision and a brief statement of the relevant background.

**Sec. 605 – Submission of reports under FISA.**

Includes the House Judiciary Committee in several existing reporting requirements.

**Title VII – Sunsets**

**Sec. 701 – USA PATRIOT Improvement and Reauthorization Act of 2005.**

Aligns the sunset of the three sun-setting provisions of the USA PATRIOT Act with the sunset of the FISA Amendment Act on December 31, 2017.
AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3361
OFFERED BY MR. SENSENBRENNER OF WISCONSIN

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Uniting and Strengthening America by Fulfilling Rights and Ending Eavesdropping, Dragnet-collection, and Online Monitoring Act” or the “USA FREEDOM Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

TITLE I—FISA BUSINESS RECORDS REFORMS

Sec. 101. Additional requirements for call detail records.
Sec. 102. Emergency authority.
Sec. 103. Prohibition on bulk collection of tangible things.
Sec. 104. Judicial review of minimization procedures for the production of tangible things.
Sec. 105. Liability protection.
Sec. 106. Compensation for assistance.
Sec. 107. Inspector general reports on business records orders.
Sec. 108. Effective date.

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

Sec. 201. Prohibition on bulk collection.
TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS

Sec. 301. Prohibition on reverse targeting.
Sec. 302. Minimization procedures.
Sec. 303. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

Sec. 401. Appointment of amicus curiae.
Sec. 402. Declassification of decisions, orders, and opinions.

TITLE V—NATIONAL SECURITY LETTER REFORM

Sec. 501. Prohibition on bulk collection.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

Sec. 601. Additional reporting on orders requiring production of business records.
Sec. 602. Business records compliance reports to Congress.
Sec. 603. Annual report by the Director of the Administrative Office of the United States Courts on orders entered.
Sec. 604. Reporting requirements for decisions of the Foreign Intelligence Surveillance Court.
Sec. 605. Submission of reports under FISA.

TITLE VII—SUNSETS

Sec. 701. USA PATRIOT Improvement and Reauthorization Act of 2005.

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

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).
TITLE I—FISA BUSINESS
RECORDS REFORMS

SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL RECORDS.

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

(1) in subparagraph (A)—

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

and

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

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

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

“(C) in the case of an application for the production of call detail records created on or after the date of the application, a statement of facts showing that—

“(i) there are reasonable grounds to believe that the call detail records sought to be produced based on the specific selec-
tion term required under subparagraph (A) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to protect against international terrorism; and

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

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

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

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

(3) by adding at the end the following new sub-

paragraph:

“(F) in the case of an application de-

scribed in subsection (b)(2)(C), shall—

“(i) authorize the production of call
detail records for a period not to exceed

180 days;
“(ii) provide that an order for such production may be extended upon application under subsection (b) and the judicial finding under paragraph (1);

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

“(I) using the specific selection term that satisfies the standard required under subsection (b)(2)(C)(ii) as the basis for production;

“(II) using the results of the production under subclause (I) as the basis for production; and

“(III) using the results of the production under subclause (II) as the basis for production;

“(iv) direct each person the Government directs to produce call detail records under the order to furnish the Government forthwith all information, facilities, or technical assistance necessary to accomplish the production in such a manner as will protect the secrecy of the production and produce a minimum of interference
with the services that such person is providing to each subject of the production; and

“(v) direct the Government to destroy all call detail records produced under the order not later than 5 years after the date of the production of such records, except for records that are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to protect against international terrorism.”.

(c) DEFINITION.—Section 501 (50 U.S.C. 1861) is amended by adding at the end the following new subsection:

“(k) CALL DETAIL RECORD DEFINED.—In this section, the term ‘call detail record’—

“(1) means session identifying information (including originating or terminating telephone number, International Mobile Subscriber Identity number, or International Mobile Station Equipment Identity number), a telephone calling card number, or the time or duration of a call; and

“(2) does not include—
“(A) the contents of any communication
(as defined in section 2510(8) of title 18,
United States Code);

“(B) the name, address, or financial infor-
information of a subscriber or customer; or

“(C) cell site location information.”.

SEC. 102. EMERGENCY AUTHORITY.

(a) Authority.—Section 501 (50 U.S.C. 1861), as
amended by section 101(c), is further amended by insert-
ing after subsection (h) the following new subsection:

“(i) Emergency Authority for Production of
Tangible Things.—

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

“(A) reasonably determines that an emer-
gency situation requires the production of tan-
gible things to obtain information for an au-
 thorized investigation (other than a threat as-
essment) conducted in accordance with sub-
section (a)(2) to protect against international
terrorism before an order authorizing such pro-
duction can with due diligence be obtained;
“(B) reasonably determines that the factual basis for the issuance of an order under this section to approve such production of tangible things exists;

“(C) informs, either personally or through a designee, a judge having jurisdiction under this section at the time the Attorney General requires the emergency production of tangible things that the decision has been made to employ the authority under this subsection; and

“(D) makes an application in accordance with this section to a judge having jurisdiction under this section as soon as practicable, but not later than 7 days after the Attorney General requires the emergency production of tangible things under this subsection.

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

“(3) In the absence of a judicial order approving the production of tangible things under this subsection, the production shall terminate when the information sought is obtained, when the application
for the order is denied, or after the expiration of 7
days from the time the Attorney General begins re-
quiring the emergency production of such tangible
things, whichever is earliest.

“(4) A denial of the application made under
this subsection may be reviewed as provided in this
section.

“(5) If such application for approval is denied,
or in any other case where the production of tangible
things is terminated and no order is issued approv-
ing the production, no information obtained or evi-
dence derived from such production shall be received
in evidence or otherwise disclosed in any trial, hear-
ing, or other proceeding in or before any court,
grand jury, department, office, agency, regulatory
body, legislative committee, or other authority of the
United States, a State, or political subdivision there-
of, and no information concerning any United States
person acquired from such production shall subse-
quently be used or disclosed in any other manner by
Federal officers or employees without the consent of
such person, except with the approval of the Attor-
ney General if the information indicates a threat of
death or serious bodily harm to any person.
“(6) The Attorney General shall assess compliance with the requirements of paragraph (5).”.

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

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “pursuant to an order” and inserting “pursuant to an order issued or an emergency production required”;

(B) in subparagraph (A), by striking “such order” and inserting “such order or such emergency production”; and

(C) in subparagraph (B), by striking “the order” and inserting “the order or the emergency production”; and

(2) in paragraph (2)—

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

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

“
SEC. 103. PROHIBITION ON BULK COLLECTION OF TANGIBLE THINGS.

(a) Application.—Section 501(b)(2) (50 U.S.C. 1861(b)(2)), as amended by section 101(a), is further amended by inserting before subparagraph (B), as redesignated by such section 101(a), the following new subparagraph:

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

(b) Order.—Section 501(c) (50 U.S.C. 1861(c)) is amended—

(1) in paragraph (2)(A), by striking the semi-colon and inserting “, including each specific selection term to be used as the basis for the production;”; and

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

“(3) No order issued under this subsection may authorize the collection of tangible things without the use of a specific selection term that meets the requirements of subsection (b)(2).”. 
SEC. 104. JUDICIAL REVIEW OF MINIMIZATION PROCEDURES FOR THE PRODUCTION OF TANGIBLE THINGS.

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

SEC. 105. LIABILITY PROTECTION.

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

“(e) No cause of action shall lie in any court against a person who produces tangible things or provides information, facilities, or technical assistance pursuant to an order issued or an emergency production required under this section. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.”.

SEC. 106. COMPENSATION FOR ASSISTANCE.

Section 501 (50 U.S.C. 1861), as amended by section 102 of this Act, is further amended by inserting after subsection (i), as added by such section 102, the following new subsection:

“(j) COMPENSATION.—The Government shall compensate, at the prevailing rate, a person for producing tangible things or providing information, facilities, or assist-
ance in accordance with an order issued or an emergency production required under this section.”.

SEC. 107. INSPECTOR GENERAL REPORTS ON BUSINESS RECORDS ORDERS.

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

(1) in subsection (b)—

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

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

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

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

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

“(C) with respect to calendar years 2012 through 2014, an examination of the minimization procedures used in relation to orders under section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) and whether the minimization procedures adequately pro-
tect the constitutional rights of United States persons;”;

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

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

“(3) CALENDAR YEARS 2012 THROUGH 2014.—Not later than December 31, 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audit conducted under subsection (a) for calendar years 2012 through 2014.”;

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

(4) by inserting after subsection (e) the following new subsection:

“(d) INTELLIGENCE ASSESSMENT.—

“(1) IN GENERAL.—For the period beginning on January 1, 2012, and ending on December 31,
2014, the Inspector General of the Intelligence Community shall assess—

“(A) the importance of the information acquired under title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) to the activities of the intelligence community;

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

“(C) the minimization procedures used by elements of the intelligence community under such title and whether the minimization procedures adequately protect the constitutional rights of United States persons; and

“(D) any minimization procedures proposed by an element of the intelligence community under such title that were modified or denied by the court established under section 103(a) of such Act (50 U.S.C. 1803(a)).

“(2) Submission date for assessment.—Not later than December 31, 2015, the Inspector General of the Intelligence Community shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the
Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2012 through 2014.”;

(5) in subsection (e), as redesignated by paragraph (3)—

(A) in paragraph (1)—

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

(ii) by striking “Inspector General of the Department of Justice” and inserting “Inspector General of the Department of Justice, the Inspector General of the Intelligence Community, and any Inspector General of an element of the intelligence community that prepares a report to assist the Inspector General of the Department of Justice or the Inspector General of the Intelligence Community in complying with the requirements of this section”; and

(B) in paragraph (2), by striking “the reports submitted under subsections (c)(1) and (c)(2)” and inserting “any report submitted under subsection (c) or (d)”;}
(6) in subsection (f), as redesignated by paragraph (3)—

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

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

(7) by adding at the end the following new subsection:

“(g) DEFINITIONS.—In this section:

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

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

SEC. 108. EFFECTIVE DATE.

The amendments made by sections 101 through 103 shall take effect on the date that is 180 days after the date of the enactment of this Act.
TITLE II—FISA PEN REGISTER
AND TRAP AND TRACE DEVICE REFORM

SEC. 201. PROHIBITION ON BULK COLLECTION.

Section 402(c) (50 U.S.C. 1842(c)) is amended—

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

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

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

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

SEC. 202. MINIMIZATION PROCEDURES.

(a) DEFINITION.—Section 401 (50 U.S.C. 1841) is amended by adding at the end the following new paragraph:

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

“(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the installation and use of a pen register or trap and trace device to
minimize the retention and prohibit the dissemination of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

“(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1), shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance; and

“(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.”.

(b) Application.—Section 402(c) (50 U.S.C. 1842(c)), as amended by section 201 of this Act, is further
(d) COMPLIANCE ASSESSMENT.—Section 402 (50 U.S.C. 1842) is amended by adding at the end the following new subsection:

“(h) At or before the end of the period of time for which the installation and use of a pen register or trap and trace device is approved under an order or an extension under this section, the judge may assess compliance with the minimization procedures by reviewing the cir-
cumstances under which information concerning United States persons was retained or disseminated.”.

**TITLE III—FISA ACQUISITIONS**

**TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS**

**SEC. 301. PROHIBITION ON REVERSE TARGETING.**

Section 702(b)(2) (50 U.S.C. 1881a(b)(2)) is amended by striking “the purpose” and inserting “a purpose”.

**SEC. 302. MINIMIZATION PROCEDURES.**

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

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

“(A) meet”;

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

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

“(B) consistent with such definition, minimize the acquisition, and prohibit the retention and dissemination, of any communication as to which the sender and all intended recipients are determined to be located in the United States
and prohibit the use of any discrete, non-target communication that is determined to be to or from a United States person or a person who appears to be located in the United States, except to protect against an immediate threat to human life.”.

SEC. 303. LIMITS ON USE OF UNLAWFULLY OBTAINED INFORMATION.

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

“(D) LIMITATION ON USE OF INFORMATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), no information obtained or evidence derived from an acquisition pursuant to a certification or targeting or minimization procedures subject to an order under subparagraph (B) concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivi-
sion thereof, and no information con-
cerning any United States person acquired
from the acquisition shall subsequently be
used or disclosed in any other manner by
Federal officers or employees without the
consent of the United States person, ex-
cept with the approval of the Attorney
General if the information indicates a
threat of death or serious bodily harm to
any person.

“(ii) EXCEPTION.—If the Government
corrects any deficiency identified by the
order of the Court under subparagraph
(B), the Court may permit the use or dis-
closure of information acquired before the
date of the correction under such mini-
mization procedures as the Court shall es-
tablish for purposes of this clause.”.

TITLE IV—FOREIGN INTEL-
LIGENCE SURVEILLANCE
COURT REFORMS

SEC. 401. APPOINTMENT OF AMICUS CURIAE.

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

“(i) AMICUS CURIAE.—
“(1) Authorization.—A court established under subsection (a) or (b), consistent with the requirement of subsection (c) and any other statutory requirement that the court act expeditiously or within a stated time—

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

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

“(2) Designation.—The presiding judges of the courts established under subsections (a) and (b) shall jointly designate not less than 5 individuals to be eligible to serve as amicus curiae. Such individuals shall be persons who possess expertise in privacy and civil liberties, intelligence collection, telecommunications, or any other area of law that may lend legal or technical expertise to the courts and who have been determined by appropriate executive
branch officials to be eligible for access to classified
information.

“(3) DUTIES.—An individual appointed to serve
as amicus curiae under paragraph (1) shall carry
out the duties assigned by the appointing court.
Such court may authorize the individual appointed
to serve as 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.

“(4) NOTIFICATION.—The presiding judges of
the courts established under subsections (a) and (b)
shall notify the Attorney General of each exercise of
the authority to appoint an individual to serve as
amicus curiae under paragraph (1).

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

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

SEC. 402. DECLASSIFICATION OF DECISIONS, ORDERS, AND
OPINIONS.

(a) DECLASSIFICATION.—Title VI (50 U.S.C. 1871 et seq.) is amended—
(1) in the heading, by striking “REPORTING REQUIREMENT” and inserting “OVER-
sight”; and
(2) by adding at the end the following new sec-
tion:

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

“(a) DECLASSIFICATION REQUIRED.—Subject to
subsection (b), the Attorney General shall conduct a de-
classification review of each decision, order, or opinion
issued by the Foreign Intelligence Surveillance Court or
the Foreign Intelligence Surveillance Court of Review (as
defined in section 601(e)) that includes significant con-
struction or interpretation of any provision of this Act
and, consistent with that review, make publicly available
to the greatest extent practicable each such decision,
order, or opinion.
“(b) REDACTED FORM.—The Attorney General may
satisfy the requirement under subsection (a) to make a
decision, order, or opinion described in such subsection publically available to the greatest extent practicable by making such decision, order, or opinion publically available in redacted form.

“(c) NATIONAL SECURITY WAIVER.—The Attorney General may waive the requirement to declassify and make publically available a particular decision, order, or opinion under subsection (a) if the Attorney General—

“(1) determines that a waiver of such requirement is necessary to protect the national security of the United States or properly classified intelligence sources or methods; and

“(2) makes publically available an unclassified summary of such decision, order, or opinion.”.

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

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

“TITLE VI—OVERSIGHT”; AND

(2) by inserting after the item relating to section 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.
TITLE V—NATIONAL SECURITY
LETTER REFORM

SEC. 501. PROHIBITION ON BULK COLLECTION.

(a) Counterintelligence Access to Telephone Toll and Transactional Records.—Section 2709(b) of title 18, United States Code, is amended in the matter preceding paragraph (1) by striking “may” and inserting “may, using a specific selection term as the basis for a request”.

(b) Access to Financial Records for Certain Intelligence and Protective Purposes.—Section 1114(a)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(2)) by striking the period and inserting “and a specific selection term to be used as the basis for the production and disclosure of financial records.”.

(c) Disclosures to FBI of Certain Consumer Records for Counterintelligence Purposes.—Section 626(a) of the Fair Credit Reporting Act (15 U.S.C. 1681u(a)) is amended by striking “that information,” and inserting “that information that includes a specific selection term to be used as the basis for the production of that information,”.

(d) Disclosures to Governmental Agencies for Counterterrorism Purposes of Consumer Reports.—Section 627(a) of the Fair Credit Reporting Act
(15 U.S.C. 1681v(a)) is amended by striking “analysis.” and inserting “analysis and a specific selection term to be used as the basis for the production of such information.”.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

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

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

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

(2) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

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

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

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

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

SEC. 602. BUSINESS RECORDS COMPLIANCE REPORTS TO CONGRESS.

(a) BUSINESS RECORDS PRODUCTIONS.—Section 502(b) (50 U.S.C. 1862(b)), as amended by section 601 of this Act, is further amended—

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

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

“(1) any compliance reviews conducted by the Federal Government of the production of tangible things under section 501;”.

(b) FISA AUTHORITIES IN GENERAL.—Section 601(a) (50 U.S.C. 1871(a)) is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting “; and”; and

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

“(6) any compliance reviews conducted by the Federal Government of electronic surveillance, physical searches, the installation of pen register or trap and trace devices, access to records, or acquisitions conducted under this Act.”.
SEC. 603. ANNUAL REPORT BY THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS ON ORDERS ENTERED.

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

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SEC. 603. ANNUAL REPORT ON ORDERS ENTERED.

The Director of the Administrative Office of the United States Courts shall annually submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and make publicly available on an Internet website—

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

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

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

“(4) the number of appointments of an individual to serve as amicus curiae under section 103, including the name of each individual appointed to serve as amicus curiae.”.

(b) Table of Contents Amendment.—The table of contents in the first section, as amended by section 402
of this Act, is further amended by inserting after the item relating to section 602, as added by such section 402, the following new item:

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

SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT.

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

“(1) not later than 45 days after the date on which the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review issues a decision, order, or opinion that includes a significant construction or interpretation of any provision of this Act or a denial of a request for an order or a modification of a request for an order, or results in a change of application of any provision of this Act or a new application of any provision of this Act—

“(A) a copy of such decision, order, or opinion and any pleadings, applications, or memoranda of law associated with such decision, order, or opinion; and

“(B) with respect to such decision, order, or opinion, a brief statement of the relevant
background factual information, questions of law, legal analysis, and decision rendered; and”.

SEC. 605. SUBMISSION OF REPORTS UNDER FISA.

(a) ELECTRONIC SURVEILLANCE.—Section 108(a)(1) (50 U.S.C. 1808(a)(1)) is amended by striking “the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, and the Committee on the Judiciary of the Senate,” and inserting “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate”.

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

(1) in the first sentence, by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the Senate,” and inserting “Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate”; and
(2) in the second sentence, by striking “and the Committee on the Judiciary of the House of Representatives”.

(c) Pen Register and Trap and Trace Devices.—Section 406(b) (50 U.S.C. 1846(b)) is amended—

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

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

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

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

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

(d) Access to Certain Business Records and Other Tangible Things.—Section 502(a) (50 U.S.C. 1862(a)) is amended by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” and inserting “Permanent
Select Committee on Intelligence of the House of Representa-
tives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate”.

TITLE VII—SUNSETS

SEC. 701. USA PATRIOT IMPROVEMENT AND REAUTHORIZA-
TION ACT OF 2005.

Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (50 U.S.C. 1805 note) is amended by striking “June 1, 2015” and inserting “December 31, 2017”.

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