	Calendar No.
113TH CONGRE 1ST SESSION	
	[Report No. 113]
	te the congressional oversight provisions of the Foreign cee Surveillance Act of 1978 and for other purposes.
IN THE	SENATE OF THE UNITED STATES
	N, from the Select Committee on Intelligence, reported the nal 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".

1	SEC. 2. SUPPLEMENTAL PROCEDURES FOR ACQUISITION
2	OF CERTAIN BUSINESS RECORDS FOR
3	COUNTERTERRORISM PURPOSES.
4	(a) Supplemental Procedures for Acquisition
5	OF CERTAIN BUSINESS RECORDS FOR INTERNATIONAL
6	TERRORISM INVESTIGATIONS.—Section 501 of the For-
7	eign Intelligence Surveillance Act of 1978 (50 U.S.C.
8	1861) is amended by adding at the end the following:
9	"(i) General Prohibition on Bulk Collection
10	OF COMMUNICATION RECORDS.—No order issued pursu-
11	ant to an application made under subsection (a) may au-
12	thorize the acquisition in bulk of wire communication or
13	electronic communication records from an entity that pro-
14	vides an electronic communication service to the public if
15	such order does not name or otherwise identify either indi-
16	viduals or facilities, unless such order complies with the
17	supplemental procedures under subsection (j).
18	"(j) Authorization for Bulk Collection of
19	Non-content Metadata.—
20	"(1) Supplemental procedures.—Any order
21	directed to the Government under subsection (a)
22	that authorizes the acquisition in bulk of wire com-
23	munication or electronic communication records,
24	which shall not include the content of such commu-
25	nications, shall be subject to supplemental proce-

1	dures, which are in addition to any other require-
2	ments or procedures imposed by this Act, as follows:
3	"(A) CONTENT PROHIBITION.—Such an
4	order shall not authorize the acquisition of the
5	content of any communication.
6	"(B) Authorization and Renewal Pe-
7	RIODS.—Such an order—
8	"(i) shall be effective for a period of
9	not more than 90 days; and
10	"(ii) may be extended by the court on
11	the same basis as an original order upon
12	an application under this title for an exten-
13	sion and new findings by the court in ac-
14	cordance with subsection (c).
15	"(C) SECURITY PROCEDURES FOR AC-
16	QUIRED DATA.—Information acquired pursuant
17	to such an order (other than information prop-
18	erly returned in response to a query under sub-
19	paragraph (D)(iii)) shall be retained by the
20	Government in accordance with security proce-
21	dures approved by the court in a manner de-
22	signed to ensure that only authorized personnel
23	will have access to the information in the man-
24	ner prescribed by this section and the court's
25	order.

1	"(D) LIMITED ACCESS TO DATA.—Access
2	to information retained in accordance with the
3	procedures described in subparagraph (C) shall
4	be prohibited, except for access—
5	"(i) to perform a query using a selec-
6	tor for which a recorded determination has
7	been made that there is a reasonable
8	articulable suspicion that the selector is as-
9	sociated with international terrorism or ac-
10	tivities in preparation therefor;
11	"(ii) to return information as author-
12	ized under paragraph (3); or
13	"(iii) as may be necessary for tech-
14	nical assurance, data management or com-
15	pliance purposes, or for the purpose of
16	narrowing the results of queries, in which
17	case no information produced pursuant to
18	the order may be accessed, used, or dis-
19	closed for any other purpose, unless the in-
20	formation is responsive to a query author-
21	ized under paragraph (3).
22	"(2) Record requirement.—
23	"(A) Determination.—For any deter-
24	mination made pursuant to paragraph
25	(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 communica-
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

1 minimization procedures required under sub-2 section (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 RE-PORTING.—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,

1	and subsequently reported to the appropriate
2	committees of Congress.
3	"(B) AVAILABILITY UPON REQUEST.—The
4	information reported under subparagraph (A)
5	shall be available to each of the following upon
6	request:
7	"(i) The Inspector General of the Na-
8	tional Security Agency.
9	"(ii) The Inspector General of the In-
10	telligence Community.
11	"(iii) The Inspector General of the
12	Department Justice.
13	"(iv) Appropriate officials of the De-
14	partment of Justice.
15	"(v) Appropriate officials of the Na-
16	tional Security Agency.
17	"(vi) The Privacy and Civil Liberties
18	Oversight Board.
19	"(6) Court review of records.—
20	"(A) REQUIREMENT TO PROVIDE
21	RECORDS.—In accordance with minimization
22	procedures required by subsection (g), and sub-
23	ject to subparagraph (B), a copy of each record
24	for a determination prepared pursuant to para-

24

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1	graph (2)(A) shall be promptly provided to the
2	court established under section 103(a).
3	"(B) RECORDS ASSOCIATED WITH UNITED
4	STATES PERSONS.—In accordance with mini-
5	mization procedures required by subsection (g),
6	a copy of each record for a determination pre-
7	pared pursuant to paragraph (2)(A) that is rea-
8	sonably believed to be associated with a par-
9	ticular, known United States person shall be
10	promptly provided the court established under
11	section 103(a), but no more than 7 days after
12	the determination.
13	"(C) Remedy for improper determina-
14	TIONS.—If the court finds that the record of
15	the determination indicates the determination
16	did not meet the requirements of this section or
17	is otherwise unlawful, the court may order that
18	production of records under the applicable order
19	be terminated or modified, that the information
20	returned in response to queries using the selec-
21	tor identified in the determination be destroyed,
22	or another appropriate remedy.
23	"(7) RECORD RETENTION AND QUERY RESTRIC-

1	"(A) RECORD RETENTION.—All records
2	and information produced pursuant to an order
3	subject to this subsection, other than the re-
4	sults of queries as described in paragraph (3),
5	shall be retained no longer than 5 years from
6	the date of acquisition.
7	"(B) QUERY RESTRICTIONS.—The Govern-
8	ment shall not query any data acquired under
9	this subsection and retained in accordance with
10	the procedures described in paragraph (1)(C)
11	more than 3 years after such data was acquired
12	unless the Attorney General determines that the
13	query meets the standard set forth in para-
14	graph(1)(D)(i).
15	"(8) Congressional oversight.—A copy of
16	each order issued pursuant to an application made
17	under subsection (a), and subject to the require-
18	ments of this subsection, shall be provided to the ap-
19	propriate committees of Congress.
20	"(9) Definitions.—In this subsection:
21	"(A) Appropriate committees of con-
22	GRESS.—The term 'appropriate committees of
23	Congress' means—

1	"(i) the Committee on the Judiciary
2	and the Select Committee on Intelligence
3	of the Senate; and
4	"(ii) the Committee on the Judiciary
5	and the Permanent Select Committee on
6	Intelligence of the House of Representa-
7	tives.
8	"(B) Content.—The term 'content', with
9	respect to a communication—
10	"(i) means any information con-
11	cerning the substance, purport, or meaning
12	of that communication; and
13	"(ii) does not include any dialing,
14	routing, addressing, signaling information.
15	"(C) ELECTRONIC COMMUNICATION.—The
16	term 'electronic communication' has the mean-
17	ing given that term in section 2510 of title 18,
18	United States Code.
19	"(D) ELECTRONIC COMMUNICATION SERV-
20	ICE.—The term 'electronic communication serv-
21	ice' has the meaning given that term in section
22	2510 of title 18, United States Code.
23	"(E) Selector.—The term 'selector'
24	means an identifier, such as a phone number or

1	electronic account identifier, that is associated
2	with a particular communicant or facility.
3	"(F) United States Person.—The term
4	'United States person' has the meaning given
5	that term in section 101 of this Act.
6	"(G) WIRE COMMUNICATION.—The term
7	'wire communication' has the meaning given
8	that term in section 2510 of title 18, United
9	States Code.".
10	(b) Annual Unclassified Report.—Section
11	502(c)(1) of the Foreign Intelligence Surveillance Act of
12	1978 (50 U.S.C. 1862(c)(1)) is amended—
13	(1) in subparagraph (A), by striking "and" at
14	the end;
15	(2) in subparagraph (B), by striking the period
16	at the end and inserting "; and; and
17	(3) by adding at the end the following:
18	"(C) for each order subject to the supplemental
19	procedures under section 501(j)—
20	"(i) the number of unique selectors for
21	which a recorded determination has been made
22	under section $501(j)(1)(D)(i)$ that reasonable
23	articulable suspicion exists that the selector is
24	associated with international terrorism or ac-
25	tivities in preparation therefor;

1	"(ii) the aggregate number of queries per-
2	formed pursuant to such section;
3	"(iii) the aggregate number of investigative
4	leads developed as a direct result of any query
5	performed pursuant to subsection $(j)(1)(D)(i)$
6	and
7	"(iv) the aggregate number of warrants or
8	court orders, based upon a showing of probable
9	cause, issued pursuant to title I or III of this
10	Act or chapter 119, 121, or 205 of title 18,
11	United States Code, in response to applications
12	for such warrants or court orders containing in-
13	formation produced by such queries.".
14	SEC. 3. ENHANCED CRIMINAL PENALTIES FOR UNAUTHOR
15	IZED ACCESS TO COLLECTED DATA.
16	Section 1030 of title 18, United States Code, is
17	amended as follows:
18	(1) Subsection (a) is amended—
19	(A) in paragraph (5)(C), by striking the
20	period at the end and inserting a semicolon;
21	(B) in paragraph (7)(C), by adding "or"
22	at the end; and
23	(C) by inserting after paragraph (7)(C) the
24	following:

1	"(8) accesses a computer without authorization
2	or exceeds authorized access and thereby obtains in-
3	formation from any department or agency of the
4	United States knowing or having reason to know
5	that such computer was operated by or on behalf of
6	the United States and that such information was ac-
7	quired by the United States pursuant to the Foreign
8	Intelligence Surveillance Act (50 U.S.C. 1801 et
9	seq.) pursuant to an order issued by a court estab-
10	lished under section 103 of that Act (50 U.S.C.
11	1803).".
12	(2) Subsection (c) is amended—
13	(A) in paragraph (4)(G)(ii), by striking the
14	period at the end and inserting a semicolon and
15	"or"; and
16	(B) by adding at the end the following:
17	"(5) a fine under this title, imprisonment for
18	not more than 10 years, or both, in the case of an
19	offense under subsection (a)(8) of this section.".
20	SEC. 4. APPOINTMENT OF AMICUS CURIAE.
21	Section 103 of the Foreign Intelligence Surveillance
22	Act of 1978 (50 U.S.C. 1803) is amended by adding at
23	the end the following:
24	"(i) Amicus Curiae.—

1	"(1) AUTHORIZATION.—Notwithstanding any
2	other provision of law, a court established under
3	subsection (a) or (b) is authorized, consistent with
4	the requirement of subsection (c) and any other state
5	utory requirement that the court act expeditiously or
6	within a stated time, to appoint amicus curiae to as-
7	sist the court in the consideration of a covered appli-
8	cation.
9	"(2) Definitions.—In this subsection:
10	"(A) APPROPRIATE COMMITTEES OF CON-
11	GRESS.—The term 'appropriate committees of
12	Congress' means—
13	"(i) the Committee on the Judiciary
14	and the Select Committee on Intelligence
15	of the Senate; and
16	"(ii) the Committee on the Judiciary
17	and the Permanent Select Committee or
18	Intelligence of the House of Representa-
19	tives.
20	"(B) COVERED APPLICATION.—The term
21	'covered application' means an application for
22	an order or review made to a court established
23	under subsection (a) or (b)—

1	"(1) that, in the opinion of such a
2	court, presents a novel or significant inter-
3	pretation of the law; and
4	"(ii) that is—
5	"(I) an application for an order
6	under this title, title III, IV, or V of
7	this Act, or section 703 or 704 of this
8	Act;
9	"(II) a review of a certification
10	or procedures under section 702 of
11	this Act; or
12	"(III) a notice of non-compliance
13	with any such order, certification, or
14	procedures.
15	"(3) Designation.—The courts established by
16	subsection (a) and (b) shall each designate 1 or
17	more individuals who have been determined by ap-
18	propriate executive branch officials to be eligible for
19	access to classified national security information, in-
20	cluding sensitive compartmented information, who
21	may be appointed to serve as amicus curiae. In ap-
22	pointing an amicus curiae pursuant to paragraph
23	(1), the court may choose from among those so des-
24	ignated.

"(4) Expertise.—An individual appointed as 1 2 an amicus curiae under paragraph (1) may be a spe-3 cial counsel or an expert on privacy and civil lib-4 erties, intelligence collection, telecommunications, or 5 any other area that may lend legal or technical ex-6 pertise to the court. 7 "(5) Duties.—An amicus curiae appointed 8 under paragraph (1) to assist with the consideration 9 of a covered application shall carry out the duties 10 assigned by the appointing court. That court may 11 authorize, to the extent consistent with the case or 12 controversy requirements of Article III of the Con-13 stitution of the United States and the national secu-14 rity of the United States, the amicus curiae to re-15 view any application, certification, petition, motion, 16 or other submission that the court determines is rel-17 evant to the duties assigned by the court. 18 "(6) Notification.—A court established under 19 subsection (a) or (b) shall notify the Attorney Gen-20 eral of each exercise of the authority to appoint an 21 amicus curiae under paragraph (1). 22 "(7) Assistance.—A court established under 23 subsection (a) or (b) may request and receive (in-24 cluding on a non-reimbursable basis) the assistance

1	of the executive branch in the implementation of this
2	subsection.
3	"(8) Administration.—A court established
4	under subsection (a) or (b) may provide for the des-
5	ignation, appointment, removal, training, support, or
6	other administration of an amicus curiae appointed
7	under paragraph (1) in a manner that is not incon-
8	sistent with this subsection.
9	"(9) Congressional oversight.—The Attor-
10	ney General shall submit to the appropriate commit-
11	tees of Congress an annual report on the number of
12	notices described in paragraph (6) received by Attor-
13	ney General for the preceding 12-month period.".
14	SEC. 5. CONSOLIDATION OF CONGRESSIONAL OVERSIGHT
15	PROVISIONS UNDER THE FOREIGN INTEL-
16	LIGENCE SURVEILLANCE ACT OF 1978.
17	(a) Repeal of Congressional Oversight Provi-
18	SIONS.—
19	(1) Repeal.—The Foreign Intelligence Surveil-
20	lance Act of 1978 is amended by striking sections
21	107, 108, 306, and 406 (50 U.S.C. 1807, 1808,
22	1826, and 1846).
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23	(2) Table of contents amendment.—The
2324	(2) Table of contents amendment.—The table of contents in the first section of the Foreign

1	striking the items relating to sections 107, 108, 306,
2	and 406.
3	(b) Semiannual Report of the Attorney Gen-
4	ERAL.—Section 601 of the Foreign Intelligence Surveil-
5	lance Act of 1978 (50 U.S.C. 1871) is amended to read
6	as follows:
7	"SEC. 601. SEMIANNUAL REPORT OF THE ATTORNEY GEN-
8	ERAL.
9	"(a) In General.—
10	"(1) Information.—On a semiannual basis,
11	the Attorney General shall submit to the appropriate
12	committees of Congress a report pursuant to para-
13	graph (2) concerning all electronic surveillance,
14	physical searches, and uses of pen registers and trap
15	and trace devices conducted under this Act.
16	"(2) Report.—The report required by para-
17	graph (1) shall include the following:
18	"(A) ELECTRONIC SURVEILLANCE.—The
19	total number of—
20	"(i) applications made for orders ap-
21	proving electronic surveillance under this
22	Act;
23	"(ii) such orders either granted, modi-
24	fied, or denied;

1	"(iii) proposed applications for orders
2	for electronic surveillance submitted pursu-
3	ant to Rule 9(a) of the Rules of Procedure
4	for the Foreign Intelligence Surveillance
5	Court, or any successor rule, that are not
6	formally presented in the form of a final
7	application under Rule 9(b) of the Rules of
8	Procedure for the Foreign Intelligence Sur-
9	veillance Court, or any successor rule;
10	"(iv) named United States person tar-
11	gets of electronic surveillance;
12	"(v) emergency authorizations of elec-
13	tronic surveillance granted under this Act
14	and the total number of subsequent orders
15	approving or denying such electronic sur-
16	veillance; and
17	"(vi) new compliance incidents arising
18	from electronic surveillance under this Act.
19	"(B) Physical searches.—The total
20	number of—
21	"(i) applications made for orders ap-
22	proving physical search under this Act;
23	"(ii) such orders either granted, modi-
24	fied, or denied;

1	"(iii) proposed applications for orders
2	for physical searches submitted pursuant
3	to Rule 9(a) of the Rules of Procedure for
4	the Foreign Intelligence Surveillance
5	Court, or any successor rule, that are not
6	formally presented in the form of a final
7	application under Rule 9(b) of the Rules of
8	Procedure for the Foreign Intelligence Sur-
9	veillance Court, or any successor rule;
10	"(iv) named United States person tar-
11	gets of physical searches;
12	"(v) emergency authorizations of
13	physical searches granted under this Act
14	and the total number of subsequent orders
15	approving or denying such physical
16	searches; and
17	"(vi) new compliance incidents arising
18	from physical searches under this Act.
19	"(C) PEN REGISTER AND TRAP AND TRACE
20	DEVICES.—The total number of—
21	"(i) applications made for orders ap-
22	proving the use of pen registers or trap
23	and trace devices under this Act;
24	"(ii) such orders either granted, modi-
25	fied, or denied;

1	"(iii) proposed applications for orders
2	for pen registers or trap and trace devices
3	submitted pursuant to Rule 9(a) of the
4	Rules of Procedure for the Foreign Intel-
5	ligence Surveillance Court, or any suc-
6	cessor rule, that are not formally presented
7	in the form of a final application under
8	Rule 9(b) of the Rules of Procedure for the
9	Foreign Intelligence Surveillance Court, or
10	any successor rule;
11	"(iv) named United States person tar-
12	gets of pen registers or trap and trace de-
13	vices;
14	"(v) emergency authorizations of the
15	use of pen registers or trap and trace de-
16	vices granted under this Act and the total
17	number of subsequent orders approving or
18	denying such use of pen registers or trap
19	and trace devices; and
20	"(vi) new compliance incidents arising
21	from the use of pen registers or trap and
22	trace devices under this Act.
23	"(D) Compliance incidents.—A sum-
24	mary of each compliance incident reported

1 subparagraphs (A)(vi),under (B)(vi),and 2 (C)(vi).3 SIGNIFICANT LEGAL INTERPRETA-4 TIONS.—A summary of significant legal inter-5 pretations of this Act involving matters before 6 the Foreign Intelligence Surveillance Court or 7 the Foreign Intelligence Surveillance Court of 8 Review, including interpretations presented in 9 applications or pleadings filed with the Foreign 10 Intelligence Surveillance Court or the Foreign 11 Intelligence Surveillance Court of Review. 12 "(b) Submissions of Significant Decisions, Or-DERS, AND OPINIONS.—The Attorney General shall submit to the appropriate committees of Congress a copy of 14 15 any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Sur-16 veillance Court of Review that includes a significant construction or interpretation of any provision of this Act, 18 19 and any pleadings, applications, or memoranda of law as-20 sociated with such decision, order, or opinion, not later 21 than 45 days after such decision, order, or opinion is 22 issued. 23 "(c) Protection of National Security.—The Director of National Intelligence, in consultation with the Attorney General, may authorize redactions of materials

- 1 described in subsection (b) that are provided to the appro-
- 2 priate committees of Congress if such redactions are nec-
- 3 essary to protect properly classified information.
- 4 "(d) Availability to Members of Congress.—
- 5 Consistent with the rules and practices of the Senate and
- 6 the House of Representatives, each report submitted pur-
- 7 suant to subsection (a)(2) and each submission made pur-
- 8 suant to subsection (b) shall be made available to every
- 9 member of Congress, subject to appropriate procedures for
- 10 the storage and handling of classified information.
- 11 "(e) Public Report.—
- "(1) IN GENERAL.—Subject to paragraph (2),
- the Attorney General, in consultation with the Direc-
- tor of National Intelligence, shall make available to
- the public an unclassified annual summary of the re-
- ports submitted under subsection (a) that, to the
- maximum extent practicable consistent with the pro-
- tection of classified information, includes the infor-
- mation contained in the report submitted pursuant
- to subsection (a)(2).
- 21 "(2) MINIMUM REQUIREMENTS.—In each re-
- port made available to the public under paragraph
- 23 (1), the Attorney General shall include, at a min-
- imum, the information required under subpara-

1	graphs (A), (B), and (C) of subsection (a)(2), which
2	may be presented as annual totals.
3	"(f) Construction.—Nothing in this title may be
4	construed to limit the authority and responsibility of an
5	appropriate committee of Congress to obtain any informa-
6	tion required by such committee to carry out its functions
7	and duties.
8	"(g) Definitions.—In this section:
9	"(1) Appropriate committees of con-
10	GRESS.—The term 'appropriate committees of Con-
11	gress' means—
12	"(A) the Select Committee on Intelligence
13	and the Committee on the Judiciary of the Sen-
14	ate; and
15	"(B) the Permanent Select Committee on
16	Intelligence and the Committee on the Judici-
17	ary of the House of Representatives.
18	"(2) Electronic surveillance.—The term
19	'electronic surveillance' has the meaning given that
20	term in section 101 of this Act.
21	"(3) Foreign intelligence surveillance
22	COURT.—The term 'Foreign Intelligence Surveillance
23	Court' means the court established under section
24	103(a) of this Act.

1	"(4) Foreign intelligence surveillance
2	COURT OF REVIEW.—The term 'Foreign Intelligence
3	Surveillance Court of Review' means the court estab-
4	lished under section 103(b) of this Act.
5	"(5) Pen register.—The term 'pen register'
6	has the meaning given that term in section 401 of
7	this Act.
8	"(6) Physical search.—The term 'physical
9	search' has the meaning given that term in section
10	301 of this Act.
11	"(7) Trap and trace device.—The term
12	'trap and trace device' has the meaning given that
13	term in section 401 of this Act.
14	"(8) United States Person.—The term
15	'United States person' has the meaning given that
16	term in section 101 of this Act.".
17	(c) Availability or Reports and Submissions.—
18	(1) In general.—Title VI of the Foreign In-
19	telligence Surveillance Act of 1978 (50 U.S.C. 1871)
20	is amended by adding after section 601 the fol-
21	lowing:
22	"SEC. 602. AVAILABILITY OF REPORTS AND SUBMISSIONS.
23	"(a) Availability to Members of Congress.—
24	Consistent with the rules and practices of the Senate and
25	the House of Representatives, each submission to Con-

- 1 gress made pursuant to section 502(b), 702(l)(1), or 707
- 2 shall be made available, to every member of Congress, sub-
- 3 ject to appropriate procedures for the storage and han-
- 4 dling of classified information.
- 5 "(b) Public Report.—The Attorney General or the
- 6 Director of National Intelligence, as appropriate, shall
- 7 make available to the public unclassified reports that, to
- 8 the maximum extent practicable consistent with the pro-
- 9 tection of classified information, include the information
- 10 contained in each submission to Congress made pursuant
- 11 to section 502(b), 702(l)(1), or 707.".
- 12 (2) Table of contents amendment.—The
- table of contents in the first section of the Foreign
- 14 Intelligence Surveillance Act of 1978 is amended by
- inserting after the item relating to section 601 the
- 16 following:

"Sec. 602. Availability of reports and submissions.".

- 17 SEC. 6. RESTRICTIONS ON QUERYING THE CONTENTS OF
- 18 CERTAIN COMMUNICATIONS.
- 19 Section 702 of the Foreign Intelligence Surveillance
- 20 Act of 1978 (50 U.S.C. 1881a) is amended by adding at
- 21 the end the following:
- 22 "(m) Queries.—
- 23 "(1) Limitation on query terms that
- 24 IDENTIFY A UNITED STATES PERSON.—A query of
- 25 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.

1	"(3) Construction.—Nothing in this sub-
2	section may be construed—
3	"(A) to prohibit access to data collected
4	under this section as may be necessary for tech-
5	nical assurance, data management or compli-
6	ance purposes, or for the purpose of narrowing
7	the results of queries, in which case no informa-
8	tion produced pursuant to the order may be
9	accessed, used, or disclosed other than for such
10	purposes;
11	"(B) to limit the authority of a law en-
12	forcement agency to conduct a query for law
13	enforcement purposes of the contents of com-
14	munications acquired under this section; or
15	"(C) to limit the authority of an agency to
16	conduct a query for the purpose of preventing
17	a threat to life or serious bodily harm to any
18	person.
19	"(4) Definitions.—In this subsection:
20	"(A) APPROPRIATE COMMITTEES OF CON-
21	GRESS.—The term 'appropriate committees of
22	Congress' means—
23	"(i) the Select Committee on Intel-
24	ligence and the Committee on the Judici-
25	ary of the Senate; and

1	"(ii) the Permanent Select Committee
2	on Intelligence and the Committee on the
3	Judiciary of the House of Representa-
4	tives.".
5	"(B) Content.—The term 'content', with
6	respect to a communication—
7	"(i) means any information con-
8	cerning the substance, purport, or meaning
9	of that communication; and
10	"(ii) does not include any dialing,
11	routing, addressing, or signaling informa-
12	tion.
13	"(C) Selector.—The term 'selector'
14	means an identifier, such as a phone number or
15	electronic account identifier, that is associated
16	with a particular communicant or facility.".
17	SEC. 7. TEMPORARY TARGETING OF PERSONS OTHER THAN
18	UNITED STATES PERSONS TRAVELING INTO
19	THE UNITED STATES.
20	(a) In General.—Section 105 of the Foreign Intel-
21	ligence Surveillance Act of 1978 (50 U.S.C. 1805) is
22	amended—
23	(1) by redesignating subsections (f), (g), (h),
24	and (i) as subsections (g), (h), (i), and (j), respec-
25	tively; and

1 (2) by inserting after subsection (e) the fol-2 lowing: 3 "(f)(1) Notwithstanding any other provision of this 4 Act, acquisition of foreign intelligence information by tar-5 geting a non-United States person reasonably believed to be located outside the United States that was lawfully ini-6 tiated by an element of the intelligence community may 8 continue for a transitional period not to exceed 72 hours from the time when it is recognized that the non-United 10 States person is reasonably believed to be located inside the United States and that the acquisition is subject to 11 12 this title or title III of this Act, provided that the head 13 of the element determines that there exists an exigent cir-14 cumstance and— 15 "(A) there is reason to believe that the target 16 of the acquisition has communicated or received or 17 will communicate or receive foreign intelligence in-18 formation relevant to the exigent circumstance; and 19 "(B) it is determined that a request for emer-20 gency authorization from the Attorney General in 21 accordance with the terms of this Act is impracti-22 cable in light of the exigent circumstance. 23 "(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

- 1 exercise the authority under this section and shall request
- 2 emergency authorization from the Attorney General pur-
- 3 suant to this Act as soon as practicable, to the extent such
- 4 request is warranted by the facts and circumstances.
- 5 "(3) Subject to subparagraph (4), the authority
- 6 under this section to continue acquisition of foreign intel-
- 7 ligence information is limited to 72 hours. However, if the
- 8 Attorney General authorizes an emergency acquisition
- 9 pursuant to this Act, then acquisition of foreign intel-
- 10 ligence information may continue for the period of time
- 11 that the Attorney General's emergency authorization or
- 12 any subsequent court order authorizing the acquisition re-
- 13 mains in effect.
- 14 "(4) The authority to acquire foreign intelligence in-
- 15 formation under this subsection shall terminate upon any
- 16 of the following, whichever occurs first—
- 17 "(A) 72 hours have elapsed since the com-
- mencement of the transitional period;
- 19 "(B) the Attorney General has directed that the
- acquisition be terminated; or
- 21 "(C) the exigent circumstance is no longer rea-
- sonably believed to exist.
- "(5) If the Attorney General authorizes an emergency
- 24 authorization during the transitional period, the acquisi-
- 25 tion of foreign intelligence shall continue during any tran-

1 sition to, and consistent with, the Attorney General emer-

- 2 gency authorization or court order.
- 3 "(6) Any information of or concerning unconsenting
- 4 United States persons acquired during the transitional pe-
- 5 riod may only be disseminated during the transitional pe-
- 6 riod if necessary to investigate, prevent, reduce, or elimi-
- 7 nate the exigent circumstance or if it indicates a threat
- 8 of death or serious bodily harm to any person.
- 9 "(7) In the event that during the transition period
- 10 a request for an emergency authorization from the Attor-
- 11 ney General pursuant to this Act for continued acquisition
- 12 of foreign intelligence is not approved or an order from
- 13 a court is not obtained to continue the acquisition, infor-
- 14 mation obtained during the transitional period shall not
- 15 be retained, except with the approval of the Attorney Gen-
- 16 eral if the information indicates a threat of death or seri-
- 17 ous bodily harm to any person.
- 18 "(8) The Attorney General shall assess compliance
- 19 with the requirements of paragraph (7).".
- 20 (b) Notification of Emergency Employment of
- 21 Electronic Surveillance.—Section 106(j) of the For-
- 22 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
- 23 1806(j)) is amended by striking "section 105(e)" and in-
- 24 serting "subsection (e) or (f) of section 105".

1	SEC. 8. CONFIRMATION OF APPOINTMENT OF THE DIREC-
2	TOR OF THE NATIONAL SECURITY AGENCY.
3	(a) Director of the National Security Agen-
4	CY.—Section 2 of the National Security Agency Act of
5	1959 (50 U.S.C. 3602) is amended—
6	(1) by inserting "(b)" before "There"; and
7	(2) by inserting before subsection (b), as so
8	designated by paragraph (1), the following:
9	"(a)(1) There is a Director of the National Security
10	Agency.
11	"(2) The Director of the National Security Agency
12	shall be appointed by the President, by and with the advice
13	and consent of the Senate.
14	"(3) The Director of the National Security Agency
15	shall be the head of the National Security Agency and
16	shall discharge such functions and duties as are provided
17	by this Act or otherwise by law or executive order.".
18	(b) Position of Importance and Responsi-
19	BILITY.—The President may designate the Director of the
20	National Security Agency as a position of importance and
21	responsibility under section 601 of title 10, United States
22	Code.
23	(e) Effective Date and Applicability.—
24	(1) IN GENERAL.—The amendments made by
25	subsection (a) shall take effect on the date of the en-

I	actment of this Act and shall apply upon the earlier
2	of—
3	(A) the date of the nomination by the
4	President of an individual to serve as the Direc-
5	tor of the National Security Agency, except that
6	the individual serving as such Director as of the
7	date of the enactment of this Act may continue
8	to perform such duties after such date of nomi-
9	nation and until the individual appointed as
10	such Director, by and with the advice and con-
11	sent of the Senate, assumes the duties of such
12	Director; or
13	(B) the date of the cessation of the per-
14	formance of the duties of such Director by the
15	individual performing such duties as of the date
16	of the enactment of this Act.
17	(2) Positions of importance and responsi-
18	BILITY.—Subsection (b) shall take effect on the date
19	of the enactment of this Act.
20	SEC. 9. PRESIDENTIAL APPOINTMENT AND SENATE CON-
21	FIRMATION OF THE INSPECTOR GENERAL OF
22	THE NATIONAL SECURITY AGENCY.
23	(a) In General.—The Inspector General Act of
24	1978 (5 U.S.C. App.) is amended—

1	(1) in section 8G(a)(2), by striking "the Na-
2	tional Security Agency,"; and
3	(2) in section 12—
4	(A) in paragraph (1), by striking "or the
5	Federal Cochairpersons of the Commissions es-
6	tablished under section 15301 of title 40,
7	United States Code" and inserting "the Federal
8	Cochairpersons of the Commissions established
9	under section 15301 of title 40, United States
10	Code; or the Director of the National Security
11	Agency'; and
12	(B) in paragraph (2), by striking "or the
13	Commissions established under section 15301
14	of title 40, United States Code" and inserting
15	"the Commissions established under section
16	15301 of title 40, United States Code, or the
17	National Security Agency".
18	(b) Effective Date; Incumbent.—
19	(1) Effective date.—The amendments made
20	by subsection (a) shall take effect on the date on
21	which the first Director of the National Security
22	Agency takes office on or after the date of the enact-
23	ment of this Act.
24	(2) Incumbent.—The individual serving as In-
25	spector General of the National Security Agency on

1 the date of the enactment of this Act shall be eligible 2 to be appointed by the President to a new term of 3 service under section 3 of the Inspector General Act 4 of 1978 (5 U.S.C. App.), by and with the advice and 5 consent of the Senate. 6 SEC. 10. ANNUAL REPORTS ON VIOLATIONS OF LAW OR EX-7 ECUTIVE ORDER. 8 (a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) is amended by add-10 ing at the end the following: "SEC. 509. ANNUAL REPORT ON VIOLATIONS OF LAW OR EX-12 ECUTIVE ORDER. 13 "(a) Annual Reports Required.—Not later than April 1 of each year, the Director of National Intelligence 14 15 shall submit to the congressional intelligence committees a report on violations of law or executive order by per-16 17 sonnel of an element of the intelligence community that were identified during the previous calendar year. 18 19 "(b) Elements.—Each report required subsection 20 (a) shall include a description of any violation of law or 21 executive order (including Executive Order No. 12333 (50) 22 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

- 1 director, head, general counsel, or inspector general of any
- 2 element of the intelligence community to have occurred.".
- 3 (b) CLERICAL AMENDMENT.—The table of sections
- 4 in the first section of the National Security Act of 1947
- 5 is amended by adding after the section relating to section
- 6 508 the following:

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

- SEC. 11. PERIODIC REVIEW OF INTELLIGENCE COMMUNITY
- 8 PROCEDURES FOR THE ACQUISITION, RETEN-
- 9 TION, AND DISSEMINATION OF INTEL-
- 10 LIGENCE.
- 11 (a) IN GENERAL.—Title V of the National Security
- 12 Act of 1947 (50 U.S.C. 3091 et seq.), as amended by sec-
- 13 tion 10, is further amended by adding at the end the fol-
- 14 lowing:
- 15 "SEC. 510. PERIODIC REVIEW OF INTELLIGENCE COMMU-
- 16 NITY PROCEDURES FOR THE ACQUISITION,
- 17 RETENTION, AND DISSEMINATION OF INTEL-
- 18 LIGENCE.
- 19 "(a) Head of an Element of the Intelligence
- 20 Community Defined.—In this section, the term 'head
- 21 of an element of the intelligence community' means, as
- 22 appropriate—
- "(1) the head of an element of the intelligence
- community; or

1	"(2) the head of the department or agency con-
2	taining such element.
3	"(b) REVIEW OF PROCEDURES APPROVED BY THE
4	ATTORNEY GENERAL.—
5	"(1) Requirement for immediate re-
6	VIEW.—Each head of an element of the intelligence
7	community that has not obtained the approval of the
8	Attorney General for the procedures, in their en-
9	tirety, required by section 2.3 of Executive Order
10	12333 (50 U.S.C. 3001 note) within 5 years prior
11	to the date of the enactment of the FISA Improve-
12	ments Act of 2013, shall initiate, not later than 180
13	days after such date of enactment, a review of the
14	procedures for such element, in accordance with
15	paragraph (3).
16	"(2) Requirement for review.—Not less
17	frequently than once every 5 years, each head of an
18	element of the intelligence community shall conduct
19	a review of the procedures approved by the Attorney
20	General for such element that are required by sec-
21	tion 2.3 of Executive Order 12333 (50 U.S.C. 3001
22	note), or any successor order, in accordance with
23	paragraph (3).
24	"(3) Requirements for reviews.—In coordi-
25	nation with the Director of National Intelligence and

1	the Attorney General, the head of an element of the
2	intelligence community required to perform a review
3	under paragraphs (1) or (2) shall—
4	"(A) review existing procedures for such
5	element that are required by section 2.3 of Ex-
6	ecutive Order 12333 (50 U.S.C. 3001 note), or
7	any successor order, to assess whether—
8	"(i) advances in communications or
9	other technologies since the time the proce-
10	dures were most recently approved by the
11	Attorney General have affected the privacy
12	protections that the procedures afford to
13	United States persons, to include the pro-
14	tections afforded to United States persons
15	whose nonpublic communications are inci-
16	dentally acquired by an element of the in-
17	telligence community; or
18	"(ii) aspects of the existing proce-
19	dures impair the acquisition, retention, or
20	dissemination of timely, accurate, and in-
21	sightful information about the activities,
22	capabilities, plans, and intentions of for-
23	eign powers, organization, and persons,
24	and their agents; and

1	"(B) propose any modifications to existing
2	procedures for such element in order to—
3	"(i) clarify the guidance such proce-
4	dures afford to officials responsible for the
5	acquisition, retention, and dissemination of
6	intelligence;
7	"(ii) eliminate unnecessary impedi-
8	ments to the acquisition, retention, and
9	dissemination of intelligence; or
10	"(iii) ensure appropriate protections
l 1	for the privacy of United States persons
12	and persons located inside the United
13	States.
14	"(4) Notice.—The Director of National Intel-
15	ligence and the Attorney General shall notify the
16	congressional intelligence committees following the
17	completion of each review required under this sec-
18	tion.
19	"(5) REQUIREMENT TO PROVIDE PROCE-
20	DURES.—Upon the implementation of any modifica-
21	tions to procedures required by section 2.3 of Execu-
22	tive Order 12333 (50 U.S.C. 3001 note), or any suc-
23	cessor order, the head of the element of the intel-
24	ligence community to which the modified procedures
25	apply shall promptly provide a copy of the modified

1	procedures to the congressional intelligence commit-
2	tees.".
3	(b) Clerical Amendment.—The table of sections
4	in the first section of the National Security Act of 1947,
5	as amended by section 10, is further amended by adding
6	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.".
7	SEC. 12. PRIVACY AND CIVIL LIBERTIES OVERSIGHT
8	BOARD ENHANCEMENTS RELATING TO THE
9	FOREIGN INTELLIGENCE SURVEILLANCE ACT
10	OF 1978.
11	(a) Definitions.—In this section:
12	(1) Appropriate official.—The term "ap-
13	propriate official" means the appropriate official of
14	an agency or department of the United States who
15	is responsible for preparing or submitting a covered
16	application.
17	(2) Board.—The term "Board" means the Pri-
18	vacy and Civil Liberties Oversight Board established
19	in section 1061 of the Intelligence Reform and Ter-
20	rorism Prevention Act of 2004 (42 U.S.C. 2000ee).
21	(3) COVERED APPLICATION.—The term "cov-
22	ered application" means a submission to a FISA
23	Court—
24	(A) that—

1	(i) presents a novel or significant in-
2	terpretation of the law; and
3	(ii) relates to efforts to protect the
4	United States from terrorism; and
5	(B) that is—
6	(i) a final application for an order
7	under title I, III, IV, or V of the Foreign
8	Intelligence Surveillance Act of 1978 (50
9	U.S.C. 1801 et seq.) or section 703 or 704
10	of that Act (50 U.S.C. 1881b and 1881c);
11	(ii) a review of a certification or pro-
12	cedure under section 702 of that Act (50
13	U.S.C. 1881a); or
14	(iii) a notice of non-compliance with
15	such an order, certification, or procedures.
16	(4) FISA COURT.—The term "FISA Court"
17	means a court established under subsection (a) or
18	(b) of section 103 of the Foreign Intelligence Sur-
19	veillance Act of 1978 (50 U.S.C. 1803).
20	(b) Notice of Submissions and Orders.—
21	(1) Submission to fisa court.—Notwith-
22	standing any provision of section 103 of the Foreign
23	Intelligence Surveillance Act of 1978 (50 U.S.C.
24	1803), if a covered application is filed with a FISA
25	Court, the appropriate official shall provide such

1	covered application to the Board not later than the
2	date of such filing, provided the provision of such
3	covered application does not delay any filing with a
4	FISA Court.
5	(2) FISA COURT ORDERS.—Notwithstanding
6	any provision of section 103 of the Foreign Intel-
7	ligence Surveillance Act of 1978 (50 U.S.C. 1803),
8	the appropriate official shall provide to the Board
9	each order of a FISA Court related to a covered ap-
10	plication.
11	(c) DISCRETIONARY ASSESSMENT OF THE BOARD.—
12	(1) Notice of decision to conduct assess-
13	MENT.—Upon receipt of a covered application under
14	subsection (b)(1), the Board shall—
15	(A) elect whether to conduct the assess-
16	ment described in paragraph (3); and
17	(B) submit to the appropriate official a no-
18	tice of the Board's election under subparagraph
19	(A).
20	(2) Timely submission.—The Board shall in
21	a timely manner prepare and submit to the appro-
22	priate official—
23	(A) the notice described in paragraph
24	(1)(B); and

1	(B) the associated assessment, if the
2	Board elects to conduct such an assessment.
3	(3) CONTENT.—An assessment of a covered ap-
4	plication prepared by the Board shall address wheth-
5	er the covered application is balanced with the need
6	to protect privacy and civil liberties, including ade-
7	quate supervision and guidelines to ensure protection
8	of privacy and civil liberties.
9	(d) Annual Review.—The Board shall conduct an
10	annual review of the activities of the National Security
11	Agency related to information collection under the Foreign
12	Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
13	seq.).
14	(e) Provision of Communications Services and
15	OFFICE SPACE TO CERTAIN MEMBERS OF PRIVACY AND
16	CIVIL LIBERTIES OVERSIGHT BOARD.—Section 1061(g)
17	of the Intelligence Reform and Terrorism Prevention Act
18	of 2004 (42 U.S.C. 2000ee(g)) is amended by adding at
19	the end the following:
20	"(5) Provision of communications services
21	AND OFFICE SPACE.—The Director of National In-
22	telligence shall provide to each member of the Board
23	who resides more than 100 miles from the District
24	of Columbia such communications services and office
25	space as may be necessary for the member to access

1 and use classified information. Such services and of-

- 2 fice space shall be located at an existing secure gov-
- 3 ernment or contractor facility located within the vi-
- 4 cinity of such member's place of residence.".