

[DISCUSSION DRAFT]113TH CONGRESS
2D SESSION**H. R.** _____

To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit
the bulk collection of call detail records, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978
to prohibit the bulk collection of call detail records, 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 “End Bulk Collection
5 Act of 2014”.

1 **SEC. 2. PROHIBITION ON BULK COLLECTION OF CALL DE-**
2 **TAIL RECORDS.**

3 Section 501(a) of the Foreign Intelligence Surveil-
4 lance Act of 1978 (50 U.S.C. 1861) is amended—

5 (1) in paragraph (1), by striking “other items”
6 and inserting “other items, but not including call de-
7 tail records”; and

8 (2) by adding at the end the following new
9 paragraph:”.

10 “(4) In this subsection, the term ‘call detail records’
11 means communications routing information, including an
12 original or terminating telephone number, an Inter-
13 national Mobile Subscriber Identity, an International Mo-
14 bile Station Equipment Identity, a trunk identifier, a tele-
15 phone calling card number, the time or duration of a call,
16 or original or terminating text-message numerical infor-
17 mation.”.

18 **SEC. 3. PROHIBITION ON BULK COLLECTION OF ELEC-**
19 **TRONIC COMMUNICATIONS RECORDS.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
21 sion of law, the Federal Government may not acquire
22 under the Foreign Intelligence Surveillance Act of 1978
23 (50 U.S.C. 1801 et seq.) records of any electronic commu-
24 nication without the use of specific identifiers or selection
25 terms.

1 (b) DEFINITION OF ELECTRONIC COMMUNICA-
2 TIONS.—In this section, the term “electronic communica-
3 tion” has the meaning given such term under section 2510
4 of title 18, United States Code.

5 **SEC. 4. PROHIBITION ON BULK COLLECTION OF CERTAIN**
6 **BUSINESS RECORDS.**

7 Notwithstanding any other provision of law, the Fed-
8 eral Government may not acquire under the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
10 library circulation records, library patron lists, book sales
11 records, book customer lists, firearm sales records, tax re-
12 turn records, educational records, or medical records con-
13 taining information that would identify a person without
14 the use of specific identifiers or selection terms.

15 **SEC. 5. PROBABLE CAUSE REQUIRED TO ACQUIRE CON-**
16 **TENT OF COMMUNICATIONS OF UNITED**
17 **STATES PERSONS.**

18 (a) PROBABLE CAUSE REQUIRED.—Notwithstanding
19 any other provision of law, the Federal Government may
20 not target a United States person under the Foreign Intel-
21 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
22 for purposes of acquiring the content of the communica-
23 tions of such United States person without a court order
24 supported by probable cause.

1 (b) DEFINITIONS.—In this section, the term “con-
2 tents” has the meaning given such term in section 2510
3 of title 18, United States Code.

4 **SEC. 6. PROHIBITION ON STORING ILLEGALLY COLLECTED**
5 **DATA AT NATIONAL SECURITY AGENCY OR**
6 **OTHER FACILITIES.**

7 Notwithstanding any other provision of law, no data
8 acquired by the Federal Government illegally may be
9 stored at a facility owned, controlled, or operated by the
10 National Security Agency or any other department or
11 agency of the Federal Government.

12 **[SEC. 7. ENHANCED CRIMINAL PENALTIES FOR UNAU-**
13 **THORIZED ACCESS TO COLLECTED DATA.**

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

16 【(1) Subsection (a) is amended—】

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

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

21 【(C) by inserting after paragraph (7)(C)
22 the following:】

23 【“(8) accesses a computer without authoriza-
24 tion or exceeds authorized access and thereby ob-
25 tains information from any department or agency of

1 the United States knowing or having reason to know
2 that such computer was operated by or on behalf of
3 the United States and that such information was ac-
4 quired by the United States pursuant to the Foreign
5 Intelligence Surveillance Act of 1978 (50 U.S.C.
6 1801 et seq.) pursuant to an order issued by a court
7 established under section 103 of that Act (50 U.S.C.
8 1803).”.]

9 [(2) Subsection (c) is amended—]

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

13 [(B) by adding at the end the following:]

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

17 [SEC. 8. APPOINTMENT OF AMICUS CURIAE.

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

21 [“(i) AMICUS CURIAE.—]

22 [“(1) AUTHORIZATION.—Notwithstanding any
23 other provision of law, a court established under
24 subsection (a) or (b) may, consistent with the re-
25 quirement of subsection (c) and any other statutory

1 requirement that the court act expeditiously or with-
2 in a stated time, to appoint amicus curiae to assist
3 the court in the consideration of a covered applica-
4 tion.】

5 【“(2) DESIGNATION.—The courts established
6 by subsection (a) and (b) shall each designate 1 or
7 more individuals who have been determined by ap-
8 propriate executive branch officials to be eligible for
9 access to classified information who may be ap-
10 pointed to serve as amicus curiae. In appointing an
11 amicus curiae pursuant to paragraph (1), the court
12 may choose from among those so designated.】

13 【“(3) EXPERTISE.—An individual appointed as
14 an amicus curiae under paragraph (1) may be a spe-
15 cial counsel or an expert on privacy and civil lib-
16 erties, intelligence collection, telecommunications, or
17 any other area that may lend legal or technical ex-
18 pertise to the court.】

19 【“(4) DUTIES.—An amicus curiae appointed
20 under paragraph (1) to assist with the consideration
21 of a covered application shall carry out the duties
22 assigned by the appointing court. That court may
23 authorize, to the extent consistent with the case or
24 controversy requirements of Article III of the Con-
25 stitution of the United States and the national secu-

1 rity of the United States, the amicus curiae to re-
2 view any application, certification, petition, motion,
3 or other submission that the court determines is rel-
4 evant to the duties assigned by the court.】

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

9 【“(6) ASSISTANCE.—A court established under
10 subsection (a) or (b) may request and receive (in-
11 cluding on a non-reimbursable basis) the assistance
12 of the executive branch in the implementation of this
13 subsection.】

14 【“(7) ADMINISTRATION.—A court established
15 under subsection (a) or (b) may provide for the des-
16 ignation, appointment, removal, training, support, or
17 other administration of an amicus curiae appointed
18 under paragraph (1) in a manner that is not incon-
19 sistent with this subsection.】

20 【“(8) CONGRESSIONAL OVERSIGHT.—The At-
21 torney General shall submit to the appropriate com-
22 mittees of Congress an annual report on the number
23 of notices described in paragraph (5) received by At-
24 torney General for the preceding 12-month period.
25 Each such report shall include the name of each in-

1 dividual appointed as an amicus curiae appointed
2 during such period.】

3 【“(9) DEFINITIONS.—In this subsection:】

4 【“(A) APPROPRIATE COMMITTEES OF CON-
5 GRESS.—The term ‘appropriate committees of
6 Congress’ means—】

7 【“(i) the Committee on the Judiciary
8 and the Select Committee on Intelligence
9 of the Senate; and】

10 【“(ii) the Committee on the Judiciary
11 and the Permanent Select Committee on
12 Intelligence of the House of Representa-
13 tives.】

14 【“(B) COVERED APPLICATION.—The term
15 ‘covered application’ means an application for
16 an order or review made to a court established
17 under subsection (a) or (b)—】

18 【“(i) that, in the opinion of such a
19 court, presents a novel or significant inter-
20 pretation of the law; and】

21 【“(ii) that is—】

22 【“(I) an application for an order
23 under this title, title III, IV, or V of
24 this Act, or section 703 or 704 of this
25 Act;】

1 【“(II) a review of a certification
2 or procedures under section 503 or
3 702 of this Act; or】

4 【“(III) a notice of non-compli-
5 ance with any such order, certifi-
6 cation, or procedures.”.】

7 **【SEC. 9. TEMPORARY TARGETING OF PERSONS OTHER**
8 **THAN UNITED STATES PERSONS TRAVELING**
9 **INTO THE UNITED STATES.**

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

13 【(1) by redesignating subsections (f), (g), (h),
14 and (i) as subsections (g), (h), (i), and (j), respec-
15 tively; and】

16 【(2) by inserting after subsection (e) the fol-
17 lowing:】

18 【“(f)(1) Notwithstanding any other provision of this
19 Act, acquisition of foreign intelligence information by tar-
20 geting a non-United States person reasonably believed to
21 be located outside the United States that was lawfully ini-
22 tiated by an element of the intelligence community may
23 continue for a transitional period not to exceed 72 hours
24 from the time when it is recognized that the non-United
25 States person is reasonably believed to be located inside

1 the United States and that the acquisition is subject to
2 this title or title III of this Act, provided that the head
3 of the element determines that there exists an exigent cir-
4 cumstance and—】

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

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

13 【“(2) The Director of National Intelligence or the
14 head of an element of the intelligence community shall
15 promptly notify the Attorney General of the decision to
16 exercise the authority under this subsection and shall re-
17 quest emergency authorization from the Attorney General
18 pursuant to this Act as soon as practicable, to the extent
19 such request is warranted by the facts and cir-
20 cumstances.】

21 【“(3) Subject to paragraph (4), the authority to ac-
22 quire foreign intelligence information under this sub-
23 section shall terminate upon any of the following, which-
24 ever occurs first—】

1 【“(A) 72 hours have elapsed since the com-
2 mencement of the transitional period;】

3 【“(B) the Attorney General has directed that
4 the acquisition be terminated; or】

5 【“(C) the exigent circumstance is no longer
6 reasonably believed to exist.】

7 【“(4) If the Attorney General authorizes an emer-
8 gency acquisition pursuant to this Act, acquisition of for-
9 eign intelligence information may continue for the period
10 of time the emergency authorization by the Attorney Gen-
11 eral or any subsequent court order authorizing the acquisi-
12 tion remains in effect.】

13 【“(5) If the Attorney General authorizes an emer-
14 gency authorization during the transitional period, the ac-
15 quisition of foreign intelligence shall continue during any
16 transition to, and consistent with, the Attorney General
17 emergency authorization or court order.】

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

24 【“(7) If during the transition period a request for
25 an emergency authorization from the Attorney General

1 pursuant to this Act for continued acquisition of foreign
2 intelligence is not approved or an order from a court is
3 not obtained to continue the acquisition, information ob-
4 tained during the transitional period shall not be retained,
5 except with the approval of the Attorney General if the
6 information indicates a threat of death or serious bodily
7 harm to any person.】

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

10 【(b) NOTIFICATION OF EMERGENCY EMPLOYMENT
11 OF ELECTRONIC SURVEILLANCE.—Section 106(j) of the
12 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
13 1806(j)) is amended by striking “section 105(e)” and in-
14 serting “subsection (e) or (f) of section 105”.】

15 **【SEC. 10. CONFIRMATION OF APPOINTMENT OF THE DIREC-**
16 **TOR OF THE NATIONAL SECURITY AGENCY.**

17 【(a) DIRECTOR OF THE NATIONAL SECURITY AGEN-
18 CY.—Section 2 of the National Security Agency Act of
19 1959 (50 U.S.C. 3602) is amended—】

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

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

23 【“(a)(1) There is a Director of the National Security
24 Agency.】

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

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

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

12 【(c) EFFECTIVE DATE AND APPLICABILITY.—】

13 【(1) IN GENERAL.—The amendments made by
14 subsection (a) shall take effect on the date of the en-
15 actment of this Act and shall apply upon the earlier
16 of—】

17 【(A) the date of the nomination by the
18 President of an individual to serve as the Direc-
19 tor of the National Security Agency, except that
20 the individual serving as such Director as of the
21 date of the enactment of this Act may continue
22 to perform such duties after such date of nomi-
23 nation and until the individual appointed as
24 such Director, by and with the advice and con-
25

1 sent of the Senate, assumes the duties of such
2 Director; or】

3 【(B) the date of the cessation of the per-
4 formance of the duties of such Director by the
5 individual performing such duties as of the date
6 of the enactment of this Act.】

7 【(2) POSITIONS OF IMPORTANCE AND RESPON-
8 SIBILITY.—Subsection (b) shall take effect on the
9 date of the enactment of this Act.】

10 **【SEC. 11. PRESIDENTIAL APPOINTMENT AND SENATE CON-**
11 **FIRMATION OF THE INSPECTOR GENERAL OF**
12 **THE NATIONAL SECURITY AGENCY.**

13 【(a) IN GENERAL.—The Inspector General Act of
14 1978 (5 U.S.C. App.) is amended—】

15 【(1) in section 8G(a)(2), by striking “the Na-
16 tional Security Agency,”; and】

17 【(2) in section 12—】

18 【(A) in paragraph (1), by striking “or the
19 Federal Cochairpersons of the Commissions es-
20 tablished under section 15301 of title 40,
21 United States Code” and inserting “the Federal
22 Cochairpersons of the Commissions established
23 under section 15301 of title 40, United States
24 Code; or the Director of the National Security
25 Agency”; and】

1 [(B) in paragraph (2), by striking “or the
2 Commissions established under section 15301
3 of title 40, United States Code” and inserting
4 “the Commissions established under section
5 15301 of title 40, United States Code, or the
6 National Security Agency”.]

7 [(b) EFFECTIVE DATE; INCUMBENT.—]

8 [(1) EFFECTIVE DATE.—The amendments
9 made by subsection (a) shall take effect on the date
10 on which the first Director of the National Security
11 Agency takes office on or after the date of the enact-
12 ment of this Act.]

13 [(2) INCUMBENT.—The individual serving as
14 Inspector General of the National Security Agency
15 on the date of the enactment of this Act shall be eli-
16 gible to be appointed by the President to a new term
17 of service under section 3 of the Inspector General
18 Act of 1978 (5 U.S.C. App.), by and with the advice
19 and consent of the Senate.]

20 **SEC. 12. DECLASSIFICATION OF DECISIONS, ORDERS, AND**
21 **OPINIONS.**

22 (a) DECLASSIFICATION.—Title VI of the Foreign In-
23 telligence Surveillance Act of 1978 (50 U.S.C. 1871 et
24 seq.) is amended—

1 (1) in the heading, by striking “**REPORT-**
2 **ING REQUIREMENT**” and inserting “**OVER-**
3 **SIGHT**”; and

4 (2) by adding at the end the following new sec-
5 tion:

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

8 “(a) **DECLASSIFICATION REQUIRED.**—Subject to
9 subsection (b), the Director of National Intelligence shall
10 conduct a declassification review of each decision, order,
11 or opinion issued by the Foreign Intelligence Surveillance
12 Court or the Foreign Intelligence Surveillance Court of
13 Review that includes significant construction or interpre-
14 tation of any provision of this Act and, consistent with
15 that review, make publicly available to the greatest extent
16 practicable each such decision, order, or opinion.

17 “(b) **REDACTED FORM.**—The Director of National
18 Intelligence may satisfy the requirement under subsection
19 (a) to make a decision, order, or opinions described in such
20 subsection publicly available to the greatest extent prac-
21 ticable by making such decision, order, or opinion publicly
22 available in redacted form.

23 “(c) **NATIONAL SECURITY WAIVER.**—The Director of
24 National Intelligence may waive the requirement to declas-

1 sify and make publicly available a particular decision,
2 order, or opinion under subsection (a) if the Director—

3 “(1) determines that a waiver of such require-
4 ment is necessary to protect the national security of
5 the United States or properly classified intelligence
6 sources or methods; and

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

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

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

“TITLE VI—OVERSIGHT”; AND

13 (2) by inserting after the item relating to sec-
14 tion 601 the following new item:

“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

15 **SEC. 13. PUBLIC REPORTING ON INCIDENTAL COLLECTION**
16 **OF UNITED STATES PERSON INFORMATION.**

17 Section 601 of the Foreign Intelligence Surveillance
18 Act of 1978 (50 U.S.C. 1871) is amended—

19 (1) by redesignating subsection (e) as sub-
20 section (f); and

21 (2) by inserting after subsection (d) the fol-
22 lowing new subsection:

23 “(e) PUBLIC REPORTING ON INCIDENTAL COLLEC-
24 TION OF UNITED STATES PERSON INFORMATION.—The

1 Attorney General shall annually make publicly available
2 a report describing the number of identified instances in
3 which the contents of a communication of a United States
4 person was acquired under this Act when the acquisition
5 authorized by this Act that resulted in the collection of
6 such contents could not reasonably have been anticipated
7 to capture such contents.”.

8 **SEC. 14. ANNUAL REPORTS ON VIOLATIONS OF LAW OR EX-**
9 **ECUTIVE ORDER.**

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

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

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

21 “(b) ELEMENTS.—Each report required subsection
22 (a) shall include a description of any violation of law or
23 executive order (including Executive Order No. 12333 (50
24 U.S.C. 3001 note)) by personnel of an element of the intel-
25 ligence community in the course of such employment that,

1 during the previous calendar year, was determined by the
2 director, head, general counsel, or inspector general of any
3 element of the intelligence community to have occurred.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 in the first section of the National Security Act of 1947
6 is amended by adding after the section relating to section
7 508 the following:

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

8 **SEC. 15. PERIODIC REVIEW OF INTELLIGENCE COMMUNITY**
9 **PROCEDURES FOR THE ACQUISITION, RETEN-**
10 **TION, AND DISSEMINATION OF INTEL-**
11 **LIGENCE.**

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

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

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

24 “(1) the head of an element of the intelligence
25 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 End Bulk Collec-
12 tion Act of 2014, 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
11 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 acqui-
sition, retention, and dissemination of intelligence.”.

7 **SEC. 16. PROCEDURES FOR TARGETED ACQUISITIONS OF**
8 **TERRORIST AND FOREIGN AGENT NON-CON-**
9 **TENT COMMUNICATIONS RECORDS.**

10 (a) IN GENERAL.—Title V of the Foreign Intelligence
11 Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is
12 amended by adding at the end the following new section:

13 **“SEC. 503. PROCEDURES FOR TARGETED ACQUISITIONS OF**
14 **TERRORIST AND FOREIGN AGENT NON-CON-**
15 **TENT COMMUNICATIONS RECORDS.**

16 “(a) AUTHORIZATION.—Notwithstanding any other
17 provision of law, upon the issuance of an order in accord-
18 ance with subsection (i)(3) or a determination under sub-
19 section (c)(2), the Attorney General and the Director of
20 National Intelligence may authorize jointly, for a period
21 of up to [1 year] from the effective date of the authoriza-
22 tion, the acquisition from an electronic communication
23 service provider of records created as a result of commu-

1 nications of an individual or facility who, based on reason-
2 able and articulable suspicion, is—

3 “(1) a foreign power or the agent of a foreign
4 power;

5 “(2) associated with a foreign power or the
6 agent of a foreign power; or

7 “(3) in contact with, or known to, a suspected
8 agent of a foreign power.

9 “(b) LIMITATIONS.—An acquisition authorized under
10 subsection (a) shall be reasonably designed—

11 “(1) not to acquire—

12 “(A) the contents associated with any com-
13 munication;

14 “(B) records of wire or electronic commu-
15 nications without the use of specific identifiers
16 or selection terms;

17 “(C) information for an investigation of a
18 United States person conducted solely upon the
19 basis of activities protected by the first amend-
20 ment to the Constitution; or

21 “(D) the name, address, social security
22 number, employer or taxpayer identification
23 number, date of birth, or credit card number of
24 any United States person; and

1 “(2) to comply with the fourth amendment to
2 the Constitution of the United States.

3 “(c) CONDUCT OF ACQUISITION.—

4 “(1) IN GENERAL.—An acquisition authorized
5 under subsection (a) shall be conducted only—

6 “(A) in accordance with the selection and
7 civil liberties and privacy protection procedures
8 adopted in accordance with subsections (d) and
9 (e); and

10 “(B) upon submission of a certification in
11 accordance with subsection (g).

12 “(2) DETERMINATION.—A determination under
13 this paragraph and for purposes of subsection (a) is
14 a determination by the Attorney General and the Di-
15 rector of National Intelligence that exigent cir-
16 cumstances exist because, without immediate imple-
17 mentation of an authorization under subsection (a),
18 intelligence important to the national security of the
19 United States may be lost or not timely acquired
20 and time does not permit the issuance of an order
21 pursuant to subsection (i)(3) prior to the implemen-
22 tation of such authorization.

23 “(3) TIMING OF DETERMINATION.—The Attor-
24 ney General and the Director of National Intel-

1 ligence may make the determination under para-
2 graph (2)—

3 “(A) before the submission of a certifi-
4 cation in accordance with subsection (g); or

5 “(B) by amending a certification pursuant
6 to subsection (i)(1)(C) at any time during
7 which judicial review under subsection (i) of
8 such certification is pending.

9 “(d) SELECTION PROCEDURES.—

10 “(1) REQUIREMENT TO ADOPT.—The Attorney
11 General, in consultation with the Director of Na-
12 tional Intelligence, shall adopt selection procedures
13 that are reasonably designed to ensure that any ac-
14 quisition authorized under subsection (a) complies
15 with the requirements and limitations relating to
16 such acquisitions under subsections (a) and (b).

17 “(2) JUDICIAL REVIEW.—The procedures
18 adopted in accordance with paragraph (1) shall be
19 subject to judicial review pursuant to subsection (i).

20 “(e) CIVIL LIBERTIES AND PRIVACY PROTECTION
21 PROCEDURES.—

22 【“(1) REQUIREMENT TO ADOPT.—The Attor-
23 ney General, in consultation with the Director of
24 National Intelligence, shall adopt civil liberties and

1 privacy protection procedures that are reasonably
2 designed to—】

3 【“(A) minimize the impact of any acqui-
4 sition authorized by (a) on the privacy and civil
5 liberties of United States persons; and】

6 【“(B) reasonably limit the receipt, reten-
7 tion, use, and disclosure of communications
8 records associated with a specific person when
9 such records are not necessary to understand
10 foreign intelligence information or assess the
11 importance of such information.】

12 “(2) JUDICIAL REVIEW.—The civil liberties and
13 privacy protection procedures adopted in accordance
14 with paragraph (1) shall be subject to judicial review
15 pursuant to subsection (i).

16 “(f) GUIDELINES FOR COMPLIANCE WITH LIMITA-
17 TIONS.—

18 “(1) REQUIREMENT TO ADOPT.—The Attorney
19 General, in consultation with the Director of Na-
20 tional Intelligence, shall adopt guidelines to ensure—

21 “(A) compliance with the requirements and
22 limitations under subsections (a) and (b); and

23 “(B) that an application for a court order
24 is filed as required by this title.

1 “(2) SUBMISSION OF GUIDELINES.—The Attor-
2 ney General shall provide the guidelines adopted in
3 accordance with paragraph (1)—

4 “(A) the congressional intelligence commit-
5 tees;

6 “(B) the Committees on the Judiciary of
7 the Senate and the House of Representatives;
8 and

9 “(C) the Foreign Intelligence Surveillance
10 Court.

11 “(g) CERTIFICATION.—

12 “(1) IN GENERAL.—

13 “(A) REQUIREMENT TO SUBMIT CERTIFI-
14 CATION.—Subject to subparagraph (B), prior to
15 the implementation of an authorization under
16 subsection (a), the Attorney General and the
17 Director of National Intelligence shall provide
18 to the Foreign Intelligence Surveillance Court a
19 written certification and any supporting affi-
20 davit, under oath and under seal, in accordance
21 with this subsection.

22 “(B) EXCEPTION.—If the Attorney Gen-
23 eral and the Director of National Intelligence
24 make a determination under subsection (c)(2)
25 and time does not permit the submission of a

1 certification under this subsection prior to the
2 implementation of an authorization under sub-
3 section (a), the Attorney General and the Direc-
4 tor of National Intelligence shall submit to the
5 Court a certification for such authorization as
6 soon as practicable but in no event later than
7 7 days after such determination is made.

8 “(2) CERTIFICATION REQUIREMENTS.—A cer-
9 tification made under this subsection shall—

10 “(A) attest that—

11 “(i) procedures have been approved,
12 have been submitted for approval, or will
13 be submitted with the certification for ap-
14 proval by the Foreign Intelligence Surveil-
15 lance Court that are reasonably designed
16 to ensure compliance with the require-
17 ments and limitations under subsections
18 (a) and (b).

19 “(ii) the civil liberties and privacy pro-
20 tection procedures to be used with respect
21 to such acquisition—

22 “(I) meet the requirements of
23 civil liberties and privacy protection
24 procedures adopted under subsection
25 (e); and

1 “(II) have been approved, have
2 been submitted for approval, or will be
3 submitted with the certification for
4 approval by the Foreign Intelligence
5 Surveillance Court;

6 “(iii) guidelines have been adopted in
7 accordance with subsection (f) to ensure
8 compliance with the limitations in sub-
9 section (b) and to ensure that an applica-
10 tion for a court order is filed as required
11 by this chapter;

12 “(iv) the procedures and guidelines re-
13 ferred to in clauses (i), (ii), and (iii) are
14 consistent with the requirements of the
15 fourth amendment to the Constitution of
16 the United States;

17 “(v) a significant purpose of the ac-
18 quisition is to obtain foreign intelligence
19 information; (vi) the acquisition involves
20 obtaining foreign intelligence information
21 from or with the assistance of an electronic
22 communications service provider; and

23 “(vi) the acquisition complies with the
24 limitations in subsection (b);

1 “(B) include the procedures adopted in ac-
2 cordance with subsections (d) and (e);

3 “(C) be supported, as appropriate, by the
4 affidavit of any appropriate official in the area
5 of national security who is—

6 “(i) appointed by the President, by
7 and with the advice and consent of the
8 Senate; or

9 “(ii) the head of an element of the in-
10 telligence community;

11 “(D) include—

12 “(i) an effective date for the author-
13 ization that is at least 30 days after the
14 submission of the written certification to
15 the court; or

16 “(ii) if the acquisition has begun or
17 the effective date is less than 30 days after
18 the submission of the written certification
19 to the court, the date the acquisition began
20 or the effective date for the acquisition;
21 and

22 “(E) if the Attorney General and the Di-
23 rector of National Intelligence make a deter-
24 mination under subsection (c)(2), include a

1 statement that such determination has been
2 made.

3 “(3) CHANGE IN EFFECTIVE DATE.—The At-
4 torney General and the Director of National Intel-
5 ligence may advance or delay the effective date re-
6 ferred to in paragraph (2)(D) by submitting an
7 amended certification in accordance with subsection
8 (i)(1)(C) to the Foreign Intelligence Surveillance
9 Court for review pursuant to subsection (i).

10 “(4) MAINTENANCE OF CERTIFICATION.—The
11 Attorney General or a designee of the Attorney Gen-
12 eral shall maintain a copy of a certification made
13 under this subsection.

14 “(5) JUDICIAL REVIEW.—A certification sub-
15 mitted in accordance with this subsection shall be
16 subject to judicial review pursuant to subsection (i).

17 “(h) DIRECTIVES.—

18 “(1) AUTHORITY.—With respect to an acquisi-
19 tion authorized under subsection (a), the Attorney
20 General and the Director of National Intelligence
21 may direct, in writing, an electronic communications
22 service provider to—

23 “(A) immediately provide the Government
24 with records, whether existing or created in the
25 future, in the format specified by the Govern-

1 ment and in a manner that will protect the se-
2 crecy of the acquisition; and

3 “(B) maintain under security procedures
4 approved by the Attorney General and the Di-
5 rector of National Intelligence any records con-
6 cerning the aid furnished that such electronic
7 communication service provider retains.

8 “(2) COMPENSATION AND ASSISTANCE.—The
9 Government shall compensate, at the prevailing rate,
10 an electronic communications service provider for
11 providing records in accordance with directives
12 issued pursuant to paragraph (1). The Government
13 may provide any information, facilities, or assistance
14 necessary to aid an electronic communications serv-
15 ice provider in complying with a directive issued pur-
16 suant to paragraph (1).

17 “(3) RECORD REQUIREMENT.—For any direc-
18 tive issued under paragraph (1), the Attorney Gen-
19 eral shall retain a record of the information indi-
20 cating that, at the time the directive was issued, the
21 directive complied with the selection procedures es-
22 tablished by subsection (d).

23 “(4) JUDICIAL REVIEW.—

24 “(A) REQUIREMENT TO PROVIDE DIREC-
25 TIVES AND SUPPORTING RECORDS.—The Attor-

1 ney General shall promptly provide to the court
2 established by section 103(a) a copy of each di-
3 rective issued under paragraph (1) and a copy
4 of each record prepared under paragraph (3).

5 “(B) REMEDY FOR IMPROPER DIREC-
6 TIVES.—The court shall promptly consider each
7 directive and record provided under subpara-
8 graph (A), and if the court finds that a record
9 prepared under paragraph (3) does not meet
10 the requirements of the selection procedures es-
11 tablished by subsection (d), the court may order
12 that the production of records under the appli-
13 cable directive be terminated or modified, that
14 the information produced in response to the di-
15 rective be destroyed, or another appropriate
16 remedy.

17 “(5) CHALLENGING OF DIRECTIVES.—

18 “(A) AUTHORITY TO CHALLENGE.—An
19 electronic communications service provider re-
20 ceiving a directive issued pursuant to paragraph
21 (1) may file a petition to modify or set aside
22 such directive with the Foreign Intelligence
23 Surveillance Court, which shall have jurisdiction
24 to review such petition.

1 “(B) ASSIGNMENT.—The presiding judge
2 of the Court shall assign a petition filed under
3 subparagraph (A) to 1 of the judges serving in
4 the pool established under section 103(e)(1) not
5 later than 24 hours after the filing of such peti-
6 tion.

7 “(C) STANDARDS FOR REVIEW.—A judge
8 considering a petition filed under subparagraph
9 (A) may grant such petition only if the judge
10 finds that the directive does not meet the re-
11 quirements of this section or is otherwise un-
12 lawful.

13 “(D) PROCEDURES FOR INITIAL RE-
14 VIEW.—A judge shall conduct an initial review
15 of a petition filed under subparagraph (A) not
16 later than 5 days after being assigned such pe-
17 tition. If the judge determines that such peti-
18 tion consists of claims, defenses, or other legal
19 contentions that are not warranted by existing
20 law or consists of a frivolous argument for ex-
21 tending, modifying, or reversing existing law or
22 for establishing new law, the judge shall imme-
23 diately deny such petition and affirm the direc-
24 tive or any part of the directive that is the sub-
25 ject of such petition and order the recipient to

1 comply with the directive or any part of it.
2 Upon making a determination under this sub-
3 paragraph or promptly thereafter, the judge
4 shall provide a written statement for the record
5 of the reasons for such determination.

6 “(E) PROCEDURES FOR PLENARY RE-
7 VIEW.—If a judge determines that a petition
8 filed under subparagraph (A) requires plenary
9 review, the judge shall affirm, modify, or set
10 aside the directive that is the subject of such
11 petition not later than 30 days after being as-
12 signed such petition. If the judge does not set
13 aside the directive, the judge shall immediately
14 affirm or affirm with modifications the direc-
15 tive, and order the recipient to comply with the
16 directive in its entirety or as modified. The
17 judge shall provide a written statement for the
18 record of the reasons for a determination under
19 this subparagraph.

20 “(F) CONTINUED EFFECT.—Any directive
21 not explicitly modified or set aside under this
22 paragraph shall remain in full effect.

23 “(G) CONTEMPT OF COURT.—Failure to
24 obey an order issued under this paragraph may
25 be punished by the Court as contempt of court.

1 “(6) ENFORCEMENT OF DIRECTIVES.—

2 “(A) ORDER TO COMPEL.—If an electronic
3 communications service provider fails to comply
4 with a directive issued pursuant to paragraph
5 (1), the Attorney General may file a petition for
6 an order to compel the service to comply with
7 the directive with the Foreign Intelligence Sur-
8 veillance Court, which shall have jurisdiction to
9 review such petition.

10 “(B) ASSIGNMENT.—The presiding judge
11 of the Court shall assign a petition filed under
12 subparagraph (A) to 1 of the judges serving in
13 the pool established under section 103(e)(1) not
14 later than 24 hours after the filing of such peti-
15 tion.

16 “(C) PROCEDURES FOR REVIEW.—A judge
17 considering a petition filed under subparagraph
18 (A) shall, not later than 30 days after being as-
19 signed such petition, issue an order requiring
20 the electronic communications service provider
21 to comply with the directive or any part of it,
22 as issued or as modified, if the judge finds that
23 the directive meets the requirements of this sec-
24 tion and is otherwise lawful. The judge shall
25 provide a written statement for the record of

1 the reasons for a determination under this
2 paragraph.

3 “(D) CONTEMPT OF COURT.—Failure to
4 obey an order issued under this paragraph may
5 be punished by the Court as contempt of court.

6 “(E) PROCESS.—Any process under this
7 paragraph may be served in any judicial district
8 in which the electronic communications service
9 provider may be found.

10 “(7) APPEAL.—

11 “(A) APPEAL TO THE COURT OF RE-
12 VIEW.—The Government or an electronic com-
13 munications service provider receiving a direc-
14 tive issued pursuant to paragraph (1) may file
15 a petition with the Foreign Intelligence Surveil-
16 lance Court of Review for review of a decision
17 issued pursuant to paragraph (4) or (5). The
18 Court of Review shall have jurisdiction to con-
19 sider such petition and shall provide a written
20 statement for the record of the reasons for a
21 decision under this subparagraph.

22 “(B) CERTIORARI TO THE SUPREME
23 COURT.—The Government or an electronic com-
24 munications service provider receiving a direc-
25 tive issued pursuant to paragraph (1) may file

1 a petition for a writ of certiorari for review of
2 a decision of the Court of Review issued under
3 subparagraph (A). The record for such review
4 shall be transmitted under seal to the Supreme
5 Court of the United States, which shall have ju-
6 risdiction to review such decision.

7 “(8) RULE OF CONSTRUCTION.—Nothing in
8 this subsection shall be construed to prevent a direc-
9 tive issued under paragraph (1) from requiring an
10 electronic communications service provider to
11 produce additional records, whether existing or cre-
12 ated in the future, based on records produced by a
13 previous directive issued under paragraph (1).

14 “(i) JUDICIAL REVIEW OF CERTIFICATIONS AND
15 PROCEDURES.—

16 “(1) IN GENERAL.—

17 “(A) REVIEW BY THE FOREIGN INTEL-
18 LIGENCE SURVEILLANCE COURT.—The Foreign
19 Intelligence Surveillance Court shall have juris-
20 diction to review a certification submitted in ac-
21 cordance with subsection (g) and the selection
22 and civil liberties and privacy protection proce-
23 dures adopted in accordance with subsections
24 (d) and (e), and amendments to such certifi-
25 cation or such procedures.

1 “(B) TIME PERIOD FOR REVIEW.—The
2 Court shall review a certification submitted in
3 accordance with subsection (g) and the selection
4 and civil liberties and privacy protection proce-
5 dures adopted in accordance with subsections
6 (d) and (e) and shall complete such review and
7 issue an order under paragraph (3) not later
8 than 30 days after the date on which such cer-
9 tification and such procedures are submitted.

10 “(C) AMENDMENTS.—The Attorney Gen-
11 eral and the Director of National Intelligence
12 may amend a certification submitted in accord-
13 ance with subsection (g) or the selection and
14 civil liberties and privacy protection procedures
15 adopted in accordance with subsections (d) and
16 (e) as necessary at any time, including if the
17 Court is conducting or has completed review of
18 such certification or such procedures, and shall
19 submit the amended certification or amended
20 procedures to the Court not later than 7 days
21 after amending such certification or such proce-
22 dures. The Court shall review any amendment
23 under this subparagraph under the procedures
24 set forth in this subsection. The Attorney Gen-
25 eral and the Director of National Intelligence

1 may authorize the use of an amended certifi-
2 cation or amended procedures pending the
3 Court's review of such amended certification or
4 amended procedures.

5 “(2) REVIEW.—The Court shall review the fol-
6 lowing:

7 “(A) CERTIFICATION.—A certification sub-
8 mitted in accordance with subsection (g) to de-
9 termine whether the certification contains all
10 the required elements.

11 “(B) SELECTION PROCEDURES.—The se-
12 lection procedures adopted in accordance with
13 subsection (d) to assess whether the procedures
14 are reasonably designed to meet the require-
15 ments of subsection (d).

16 “(C) CIVIL LIBERTIES AND PRIVACY PRO-
17 TECTION PROCEDURES.—The civil liberties and
18 privacy protection procedures adopted in ac-
19 cordance with subsection (e) to assess whether
20 such procedures meet the requirements of sub-
21 section (e).

22 “(3) ORDERS.—

23 “(A) APPROVAL.—If the Court finds that
24 a certification submitted in accordance with
25 subsection (g) contains all the required ele-

1 ments and that the selection and civil liberties
2 and privacy protection procedures adopted in
3 accordance with subsections (d) and (e) are
4 consistent with the requirements of those sub-
5 sections and with the fourth amendment to the
6 Constitution of the United States, the Court
7 shall enter an order approving the certification
8 and the use, or continued use in the case of an
9 acquisition authorized pursuant to a determina-
10 tion under subsection (c)(2), of the procedures
11 for the acquisition.

12 “(B) CORRECTION OF DEFICIENCIES.—If
13 the Court finds that a certification submitted in
14 accordance with subsection (g) does not contain
15 all the required elements, or that the proce-
16 dures adopted in accordance with subsections
17 (d) and (e) are not consistent with the require-
18 ments of those subsections or the fourth
19 amendment to the Constitution of the United
20 States, the Court shall issue an order directing
21 the Government to, at the Government’s elec-
22 tion and to the extent required by the Court’s
23 order—

24 “(i) correct any deficiency identified
25 by the Court’s order not later than 30 days

1 after the date on which the Court issues
2 the order; or

3 “(ii) cease, or not begin, the imple-
4 mentation of the authorization for which
5 such certification was submitted.

6 “(C) REQUIREMENT FOR WRITTEN STATE-
7 MENT.—In support of an order under this sub-
8 section, the Court shall provide, simultaneously
9 with the order, for the record a written state-
10 ment of the reasons for the order.

11 [“(4) APPEAL.—]

12 [“(A) APPEAL TO THE COURT OF RE-
13 VIEW.—The Government may file a petition
14 with the Foreign Intelligence Surveillance Court
15 of Review for review of an order under this sub-
16 section. The Court of Review shall have juris-
17 diction to consider such petition. For any deci-
18 sion under this subparagraph affirming, revers-
19 ing, or modifying an order of the Foreign Intel-
20 ligence Surveillance Court, the Court of Review
21 shall provide for the record a written statement
22 of the reasons for the decision.]

23 [“(B) CONTINUATION OF ACQUISITION
24 PENDING REHEARING OR APPEAL.—Any acqui-

sition affected by an order under paragraph
(3)(B) may continue—】

【“(i) during the pendency of any re-
hearing of the order by the Court en banc;
and】

【“(ii) if the Government files a peti-
tion for review of an order under this sec-
tion, until the Court of Review enters an
order under subparagraph (C).】

【“(C) IMPLEMENTATION PENDING AP-
PEAL.—Not later than 60 days after the filing
of a petition for review of an order under para-
graph (3)(B) directing the correction of a defi-
ciency, the Court of Review shall determine,
and enter a corresponding order regarding,
whether all or any part of the correction order,
as issued or modified, shall be implemented
during the pendency of the review.】

【“(D) CERTIORARI TO THE SUPREME
COURT.—The Government may file a petition
for a writ of certiorari for review of a decision
of the Court of Review issued under subpara-
graph (A). The record for such review shall be
transmitted under seal to the Supreme Court of

1 the United States, which shall have jurisdiction
2 to review such decision.】

3 “(5) SCHEDULE.—

4 “(A) REAUTHORIZATION OF AUTHORIZA-
5 TIONS IN EFFECT.—If the Attorney General
6 and the Director of National Intelligence seek
7 to reauthorize or replace an authorization
8 issued under subsection (a), the Attorney Gen-
9 eral and the Director of National Intelligence
10 shall, to the extent practicable, submit to the
11 Court the certification prepared in accordance
12 with subsection (g) and the procedures adopted
13 in accordance with subsections (d) and (e) at
14 least 30 days prior to the expiration of such au-
15 thorization.

16 “(B) REAUTHORIZATION OF ORDERS, AU-
17 THORIZATIONS, AND DIRECTIVES.—If the At-
18 torney General and the Director of National In-
19 telligence seek to reauthorize or replace an au-
20 thorization issued under subsection (a) by filing
21 a certification pursuant to subparagraph (A),
22 that authorization, and any directives issued
23 thereunder and any order related thereto, shall
24 remain in effect, notwithstanding the expiration
25 provided for in subsection (a), until the Court

1 issues an order with respect to such certifi-
2 cation under paragraph (3) at which time the
3 provisions of that paragraph and paragraph (4)
4 shall apply with respect to such certification.

5 “(j) JUDICIAL PROCEEDINGS.—

6 “(1) EXPEDITED JUDICIAL PROCEEDINGS.—Ju-
7 dicial proceedings under this section shall be con-
8 ducted as expeditiously as possible.

9 “(2) TIME LIMITS.—A time limit for a judicial
10 decision in this section shall apply unless the Court,
11 the Court of Review, or any judge of either the
12 Court or the Court of Review, by order for reasons
13 stated, extends that time as necessary for good
14 cause in a manner consistent with national security.

15 “(k) MAINTENANCE AND SECURITY OF RECORDS
16 AND PROCEEDINGS.—

17 “(1) STANDARDS.—The Foreign Intelligence
18 Surveillance Court shall maintain a record of a pro-
19 ceeding under this section, including petitions, ap-
20 peals, orders, and statements of reasons for a deci-
21 sion, under security measures adopted by the Chief
22 Justice of the United States, in consultation with
23 the Attorney General and the Director of National
24 Intelligence.

1 “(2) FILING AND REVIEW.—All petitions under
2 this section shall be filed under seal. In any pro-
3 ceedings under this section, the Court shall, upon re-
4 quest of the Government, review ex parte and in
5 camera any Government submission, or portions of
6 a submission, which may include classified informa-
7 tion.

8 “(3) RETENTION OF RECORDS.—The Attorney
9 General and the Director of National Intelligence
10 shall retain a directive or an order issued under this
11 section for a period of not less than 10 years from
12 the date on which such directive or such order is
13 issued.

14 “(1) ASSESSMENTS AND REVIEWS.—

15 “(1) SEMIANNUAL ASSESSMENT.—Not less fre-
16 quently than once every 6 months, the Attorney
17 General and Director of National Intelligence shall
18 assess compliance with the selection and civil lib-
19 erties and privacy protection procedures adopted in
20 accordance with subsections (d) and (e) and the
21 guidelines adopted in accordance with subsection (f).
22 The assessment shall also include the aggregate
23 number of directives issued under subsection (h)
24 during the relevant time period. The Attorney Gen-

1 eral and Director of National Intelligence shall sub-
2 mit each assessment to—

3 “(A) the Foreign Intelligence Surveillance
4 Court; and

5 “(B) consistent with the Rules of the
6 House of Representatives, the Standing Rules
7 of the Senate, and Senate Resolution 400 of the
8 94th Congress or any successor Senate resolu-
9 tion—

10 “(i) the congressional intelligence
11 committees; and

12 “(ii) the Committees on the Judiciary
13 of the House of Representatives and the
14 Senate.

15 “(2) AGENCY ASSESSMENT.—The Inspector
16 General of the Department of Justice and the In-
17 spector General of each element of the intelligence
18 community authorized to acquire communications
19 records under subsection (a), with respect to the de-
20 partment or element of such Inspector General—

21 “(A) are authorized to review compliance
22 with the selection and civil liberties and privacy
23 protection procedures adopted in accordance
24 with subsections (d) and (e) and the guidelines
25 adopted in accordance with subsection (f);

1 “(B shall provide each such review to—
2 “(i) the Attorney General;
3 “(ii) the Director of National Intel-
4 ligence; and
5 “(iii) consistent with the Rules of the
6 House of Representatives, the Standing
7 Rules of the Senate, and Senate Resolution
8 400 of the 94th Congress or any successor
9 Senate resolution—
10 “(I) the congressional intelligence
11 committees; and
12 “(II) the Committees on the Ju-
13 diciary of the House of Representa-
14 tives and the Senate.
15 “(m) DEFINITIONS.—In this section:
16 “(1) The terms ‘contents’, ‘wire communica-
17 tion’, and ‘electronic communication’ have the mean-
18 ing given such terms in section 2510 of title 18,
19 United States Code.
20 “(2) The term ‘electronic communication serv-
21 ice provider’ has the meaning given such term in
22 section 701.
23 “(3) The terms ‘foreign power’ and ‘agent of a
24 foreign power’ have the meanings given such terms
25 in section 101.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in the first section of the Foreign Intelligence Surveillance
3 Act of 1978 (50 U.S.C. 1801 note) is amended by insert-
4 ing after the item relating to section 502 the following
5 new item:

“Sec. 503. Procedures for targeted acquisitions of terrorist and foreign agent
non-content communications records.”.

6 (c) CONFORMING AMENDMENT.—Section 802(a)(3)
7 of the Foreign Intelligence Surveillance Act of 1978 (50
8 U.S.C. 1885a) is amended by striking “or 702(h)” and
9 inserting “503(h), or 702(h)”.