IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H. R. 2048

To reform the authorities of the Federal Government to require the production of certain business records, conduct electronic surveillance, use pen registers and trap and trace devices, and use other forms of information gathering for foreign intelligence, counterterrorism, and criminal purposes, and for other purposes.

Referred to the Committee on ________________ and ordered to be printed

Ordered to lie on the table and to be printed

Amendment in the Nature of a Substitute intended to be proposed by ____________

Viz:

1 Strike all after the enacting clause and insert the following:

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) Short Title.—This Act may be cited as the “Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act of 2015” or the “USA FREEDOM Act of 2015”.

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

1. Short title; table of contents.

TITLE I—FISA BUSINESS RECORDS REFORMS

101. Additional requirements for call detail records.
102. Emergency authority.
103. Prohibition on bulk collection of tangible things.
104. Judicial review.
105. Liability protection.
106. Compensation for assistance.
107. Notice to the Attorney General on changes in retention of call detail records.
108. Definitions.
110. Effective date.
111. Rule of construction.

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

201. Prohibition on bulk collection.
202. Privacy procedures.

TITLE III—FISA ACQUISITIONS TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS

301. Limits on use of unlawfully obtained information.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

401. Appointment of amicus curiae.

TITLE V—NATIONAL SECURITY LETTER REFORM

501. Prohibition on bulk collection.
502. Limitations on disclosure of national security letters.
503. Judicial review.

TITLE VI—FISA TRANSPARENCY AND REPORTING REQUIREMENTS

601. Additional reporting on orders requiring production of business records; business records compliance reports to Congress.
602. Annual reports by the Government.
603. Public reporting by persons subject to FISA orders.
604. Reporting requirements for decisions, orders, and opinions of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review.
605. Submission of reports under FISA.

TITLE VII—ENHANCED NATIONAL SECURITY PROVISIONS

701. Emergencies involving non-United States persons.
702. Preservation of treatment of non-United States persons traveling outside the United States as agents of foreign powers.
703. Improvement to investigations of international proliferation of weapons of mass destruction.
704. Increase in penalties for material support of foreign terrorist organizations.
705. Sunsets.

TITLE VIII—SAFETY OF MARITIME NAVIGATION AND NUCLEAR TERRORISM CONVENTIONS IMPLEMENTATION

Subtitle A—Safety of Maritime Navigation
801. Amendment to section 2280 of title 18, United States Code.
802. New section 2280a of title 18, United States Code.
803. Amendments to section 2281 of title 18, United States Code.
804. New section 2281a of title 18, United States Code.
805. Ancillary measure.

Subtitle B—Prevention of Nuclear Terrorism
811. New section 2332i of title 18, United States Code.
812. Amendment to section 831 of title 18, United States Code.

1 SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.
2
3 Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

TITLE I—FISA BUSINESS RECORDS REFORMS

SEC. 101. ADDITIONAL REQUIREMENTS FOR CALL DETAIL RECORDS.

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

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “a statement” and inserting “in the
case of an application other than an application described in subparagraph (C) (including an application for the production of call detail records other than in the manner described in subparagraph (C)), a statement’’; and

(B) in clause (iii), by striking ‘‘; and’’ and inserting a semicolon;

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

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

‘‘(C) in the case of an application for the production on an ongoing basis of call detail records created before, on, or after the date of the application relating to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to protect against international terrorism, a statement of facts showing that—

‘‘(i) there are reasonable grounds to believe that the call detail records sought to be produced based on the specific selection term required under subparagraph (A) are relevant to such investigation; and
“(ii) there is a reasonable, articulable suspicion that such specific selection term is associated with a foreign power engaged in international terrorism or activities in preparation therefor, or an agent of a foreign power engaged in international terrorism or activities in preparation therefor; and”.

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

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

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

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

“(F) in the case of an application described in subsection (b)(2)(C), shall—

“(i) authorize the production on a daily basis of call detail records for a period not to exceed 180 days;

“(ii) provide that an order for such production may be extended upon application under subsection (b) and the judicial
finding under paragraph (1) of this sub-
section;

“(iii) provide that the Government
may require the prompt production of a
first set of call detail records using the
specific selection term that satisfies the
standard required under subsection
(b)(2)(C)(ii);

“(iv) provide that the Government
may require the prompt production of a
second set of call detail records using ses-
sion-identifying information or a telephone
calling card number identified by the spe-
cific selection term used to produce call de-
tail records under clause (iii);

“(v) provide that, when produced,
such records be in a form that will be use-
ful to the Government;

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

“(vii) direct the Government to—

“(I) adopt minimization proce-
dures that require the prompt de-
struction of all call detail records pro-
duced under the order that the Gov-
ernment determines are not foreign
intelligence information; and

“(II) destroy all call detail
records produced under the order as
prescribed by such procedures.”.

SEC. 102. EMERGENCY AUTHORITY.

(a) Authority.—Section 501 (50 U.S.C. 1861) is
amended by adding at the end the following new sub-
section:

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

“(1) Notwithstanding any other provision of
this section, the Attorney General may require the
emergency production of tangible things if the Attor-
ney General—
“(A) reasonably determines that an emergency situation requires the production of tangible things before an order authorizing such production can with due diligence be obtained;

“(B) reasonably determines that the factual basis for the issuance of an order under this section to approve such production of tangible things exists;

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

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

“(2) If the Attorney General requires the emergency production of tangible things under paragraph (1), the Attorney General shall require that the minimization procedures required by this section for the issuance of a judicial order be followed.
“(3) In the absence of a judicial order approving the production of tangible things under this subsection, the production shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 7 days from the time the Attorney General begins requiring the emergency production of such tangible things, whichever is earliest.

“(4) A denial of the application made under this subsection may be reviewed as provided in section 103.

“(5) If such application for approval is denied, or in any other case where the production of tangible things is terminated and no order is issued approving the production, no information obtained or evidence derived from such production shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof, and no information concerning any United States person acquired from such production shall subsequently be used or disclosed in any other manner by Federal officers or employees without the
10

consent of such person, except with the approval of
the Attorney General if the information indicates a
threat of death or serious bodily harm to any per-
son.

“(6) The Attorney General shall assess compli-
ance with the requirements of paragraph (5).”.

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

(1) in paragraph (1)—

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

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

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

(2) in paragraph (2)—

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

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

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

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

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

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

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

“(3) No order issued under this subsection may authorize the collection of tangible things without the use of a specific selection term that meets the requirements of subsection (b)(2).”.
1  SEC. 104. JUDICIAL REVIEW.
2
3  (a) Minimization Procedures.—
4
5  (1) Judicial review.—Section 501(c)(1) (50
6  U.S.C. 1861(c)(1)) is amended by inserting after
7  “subsections (a) and (b)” the following: “and that
8  the minimization procedures submitted in accord-
9  ance with subsection (b)(2)(D) meet the definition of
10  minimization procedures under subsection (g)”.
11
12  (2) Rule of construction.—Section 501(g)
13  (50 U.S.C. 1861(g)) is amended by adding at the
14  end the following new paragraph:
15
16  “(3) Rule of construction.—Nothing in
17  this subsection shall limit the authority of the court
18  established under section 103(a) to impose addi-
19  tional, particularized minimization procedures with
20  regard to the production, retention, or dissemination
21  of nonpublicly available information concerning
22  unconsenting United States persons, including addi-
23  tional, particularized procedures related to the de-
24  struction of information within a reasonable time pe-
25  riod.”.
26
27  (3) Technical and Conforming Amendment.—Section 501(g)(1) (50 U.S.C. 1861(g)(1)) is
28  amended—
29
30  (A) by striking “Not later than 180 days
31  after the date of the enactment of the USA PA-
TRIOT Improvement and Reauthorization Act of 2005, the’” and inserting “The’”; and

(B) by inserting after “adopt” the following: “, and update as appropriate,”.

(b) ORDERS.—Section 501(f)(2) (50 U.S.C. 1861(f)(2)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking “that order” and inserting “the production order or any nondisclosure order imposed in connection with the production order”; and

(B) by striking the second sentence; and

(2) in subparagraph (C)—

(A) by striking clause (ii); and

(B) by redesignating clause (iii) as clause (ii).

SEC. 105. LIABILITY PROTECTION.

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

“(e)(1) No cause of action shall lie in any court against a person who—

“(A) produces tangible things or provides information, facilities, or technical assistance in accordance with an order issued or an emergency production required under this section; or
“(B) otherwise provides technical assistance to the Government under this section or to implement the amendments made to this section by the USA FREEDOM Act of 2015.

“(2) A production or provision of information, facilities, or technical assistance described in paragraph (1) shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.”.

SEC. 106. COMPENSATION FOR ASSISTANCE.

Section 501 (50 U.S.C. 1861), as amended by section 102 of this Act, is further amended by adding at the end the following new subsection:

“(j) COMPENSATION.—The Government shall compensate a person for reasonable expenses incurred for—

“(1) producing tangible things or providing information, facilities, or assistance in accordance with an order issued with respect to an application described in subsection (b)(2)(C) or an emergency production under subsection (i) that, to comply with subsection (i)(1)(D), requires an application described in subsection (b)(2)(C); or

“(2) otherwise providing technical assistance to the Government under this section or to implement the amendments made to this section by the USA FREEDOM Act of 2015.”.
SEC. 107. NOTICE TO THE ATTORNEY GENERAL ON CHANGES IN RETENTION OF CALL DETAIL RECORDS.

Section 501 (50 U.S.C. 1861), as amended by section 106 of this Act, is amended by adding at the end the following new subsection:

“(k) Prospective Changes to Existing Practices Related to Call Detail Records.—

“(1) In general.—Consistent with subsection (c)(2)(F), an electronic communication service provider that has been issued an order to produce call detail records pursuant to an order under subsection (c) shall notify the Attorney General if that service provider intends to retain its call detail records for a period less than 18 months.

“(2) Timing of notice.—A notification under paragraph (1) shall be made not less than 180 days prior to the date such electronic communications service provider intends to implement a policy to retain such records for a period less than 18 months.”.

SEC. 108. DEFINITIONS.

Section 501 (50 U.S.C. 1861), as amended by section 107 of this Act, is further amended by adding at the end the following new subsection:

“(l) Definitions.—In this section:

“(2) Address.—The term ‘address’ means a physical address or electronic address, such as an electronic mail address or temporarily assigned network address (including an Internet protocol address).

“(3) Call detail record.—The term ‘call detail record’—

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

“(B) does not include—

“(i) the contents (as defined in section 2510(8) of title 18, United States Code) of any communication;
“(ii) the name, address, or financial
information of a subscriber or customer; or
“(iii) cell site location or global position-
ing system information.
“(4) SPECIFIC SELECTION TERM.—
“(A) TANGIBLE THINGS.—
“(i) IN GENERAL.—Except as pro-
vided in subparagraph (B), a ‘specific se-
lection term’—
“(I) is a term that specifically
identifies a person, account, address,
or personal device, or any other spec-
cific identifier; and
“(II) is used to limit, to the
greatest extent reasonably practicable,
the scope of tangible things sought
consistent with the purpose for seek-
ing the tangible things.
“(ii) LIMITATION.—A specific selec-
tion term under clause (i) does not include
an identifier that does not limit, to the
greatest extent reasonably practicable, the
scope of tangible things sought consistent
with the purpose for seeking the tangible
things, such as an identifier that—
“(I) identifies an electronic communication service provider (as that term is defined in section 701) or a provider of remote computing service (as that term is defined in section 2711 of title 18, United States Code), when not used as part of a specific identifier as described in clause (i), unless the provider is itself a subject of an authorized investigation for which the specific selection term is used as the basis for the production; or

“(II) identifies a broad geographic region, including the United States, a city, a county, a State, a zip code, or an area code, when not used as part of a specific identifier as described in clause (i).

“(iii) Rule of Construction.—Nothing in this paragraph shall be construed to preclude the use of multiple terms or identifiers to meet the requirements of clause (i).
“(B) Call detail record applications.—For purposes of an application submitted under subsection (b)(2)(C), the term ‘specific selection term’ means a term that specifically identifies an individual, account, or personal device.”.

SEC. 109. INSPECTOR GENERAL REPORTS ON BUSINESS RECORDS ORDERS.

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

(1) in subsection (b)—

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

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

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

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

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

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

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

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

“(3) Calendar years 2012 through 2014.—Not later than 1 year after the date of enactment of the USA FREEDOM Act of 2015, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the audit conducted under subsection (a) for calendar years 2012 through 2014.”;

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;
(4) by inserting after subsection (c) the following new subsection:

“(d) INTELLIGENCE ASSESSMENT.—

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

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

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

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

“(D) any minimization procedures proposed by an element of the intelligence community under such title that were modified or denied by the court established under section 103(a) of such Act (50 U.S.C. 1803(a)).
“(2) Submission date for assessment.— Not later than 180 days after the date on which the Inspector General of the Department of Justice submits the report required under subsection (c)(3), the Inspector General of the Intelligence Community shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report containing the results of the assessment for calendar years 2012 through 2014.”;

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

(A) in paragraph (1)—

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

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

(B) in paragraph (2), by striking “the reports submitted under subsections (c)(1) and (c)(2)” and inserting “any report submitted under subsection (c) or (d)”;

(6) in subsection (f), as redesignated by paragraph (3)—

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

and

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

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

“(g) DEFINITIONS.—In this section:

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

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

SEC. 110. EFFECTIVE DATE.

(a) In General.—The amendments made by sec-
tions 101 through 103 shall take effect on the date that
is 1 year after the date of the enactment of this Act.

(b) Review and Certification.—The Director of
National Intelligence shall—

(1) review the implementation of the transition
from the existing procedures for the production of
call detail records under title V of the Foreign Intel-
ligence Surveillance Act of 1978 (50 U.S.C. 1801 et
seq.), as in effect prior to the effective date for the
amendments made by sections 101 through 103 of
this Act, to the new procedures pursuant to the
amendments made by sections 101 through 103 of
this Act; and

(2) not later than 30 days before the effective
date specified in subsection (a), certify to Congress
in writing that—

(A) the implementation of the transition
described in paragraph (1) is operationally ef-
fective to allow the timely retrieval of foreign
intelligence information from recipients of an
order issued under section 501(c)(2)(F) of the
Foreign Intelligence Surveillance Act of 1978, as amended by section 101 of this Act; and

(B) the implementation of the amendments made by section 101 through 103 of this Act—

(i) will not harm the national security of the United States; and

(ii) will ensure the protection of classified information and classified intelligence sources and methods related to such production of call detail records.

c (c) Rule of Construction.—Nothing in this Act shall be construed to alter or eliminate the authority of the Government to obtain an order under title V of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) as in effect prior to the effective date described in subsection (a) during the period ending on such effective date.

SEC. 111. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to authorize the production of the contents (as such term is defined in section 2510(8) of title 18, United States Code) of any electronic communication from an electronic communication service provider (as such term is defined in section 701(b)(4) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881(b)(4))) under title V of the Foreign

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

SEC. 201. PROHIBITION ON BULK COLLECTION.

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

(1) in paragraph (1), by striking ‘‘; and’’ and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ‘‘; and’’; and

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

‘‘(3) a specific selection term to be used as the basis for the use of the pen register or trap and trace device.’’.

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

‘‘(4)(A) The term ‘specific selection term’—

‘‘(i) is a term that specifically identifies a person, account, address, or personal device, or any other specific identifier; and

...
“(ii) is used to limit, to the greatest extent reasonably practicable, the scope of information sought, consistent with the purpose for seeking the use of the pen register or trap and trace device.

“(B) A specific selection term under subparagraph (A) does not include an identifier that does not limit, to the greatest extent reasonably practicable, the scope of information sought, consistent with the purpose for seeking the use of the pen register or trap and trace device, such as an identifier that—

“(i) identifies an electronic communication service provider (as that term is defined in section 701) or a provider of remote computing service (as that term is defined in section 2711 of title 18, United States Code), when not used as part of a specific identifier as described in subparagraph (A), unless the provider is itself a subject of an authorized investigation for which the specific selection term is used as the basis for the use; or

“(ii) identifies a broad geographic region, including the United States, a city, a county, a State, a zip code, or an area code, when not
used as part of a specific identifier as described in subparagraph (A).

“(C) For purposes of subparagraph (A), the term ‘address’ means a physical address or electronic address, such as an electronic mail address or temporarily assigned network address (including an Internet protocol address).

“(D) Nothing in this paragraph shall be construed to preclude the use of multiple terms or identifiers to meet the requirements of subparagraph (A).”.

SEC. 202. PRIVACY PROCEDURES.

(a) In general.—Section 402 (50 U.S.C. 1842) is amended by adding at the end the following new subsection:

“(h) Privacy Procedures.—

“(1) In general.—The Attorney General shall ensure that appropriate policies and procedures are in place to safeguard nonpublicly available information concerning United States persons that is collected through the use of a pen register or trap and trace device installed under this section. Such policies and procedures shall, to the maximum extent practicable and consistent with the need to protect national security, include privacy protections that
apply to the collection, retention, and use of information concerning United States persons.

“(2) Rule of Construction.—Nothing in this subsection limits the authority of the court established under section 103(a) or of the Attorney General to impose additional privacy or minimization procedures with regard to the installation or use of a pen register or trap and trace device.”.

(b) Emergency Authority.—Section 403 (50 U.S.C. 1843) is amended by adding at the end the following new subsection:

“(d) Privacy Procedures.—Information collected through the use of a pen register or trap and trace device installed under this section shall be subject to the policies and procedures required under section 402(h).”.

TITLE III—FISA ACQUISITIONS

TARGETING PERSONS OUTSIDE THE UNITED STATES REFORMS

SEC. 301. LIMITS ON USE OF UNLAWFULLY OBTAINED INFORMATION.

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

“(D) Limitation on use of information.—
“(i) IN GENERAL.—Except as provided in clause (ii), if the Court orders a correction of a deficiency in a certification or procedures under subparagraph (B), no information obtained or evidence derived pursuant to the part of the certification or procedures that has been identified by the Court as deficient concerning any United States person shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired pursuant to such part of such certification or procedures shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of the United States person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.
“(ii) EXCEPTION.—If the Government corrects any deficiency identified by the order of the Court under subparagraph (B), the Court may permit the use or disclosure of information obtained before the date of the correction under such minimization procedures as the Court may approve for purposes of this clause.”.

TITLE IV—FOREIGN INTELLIGENCE SURVEILLANCE COURT REFORMS

SEC. 401. APPOINTMENT OF AMICUS CURIAE.

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

“(i) AMICUS CURIAE.—

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

“(A) to appoint amicus curiae to—

“(i) assist the court in the consideration of any application for an order or review that, in the opinion of the court, pre-
sents a novel or significant interpretation
of the law; or
“(ii) provide technical expertise in any
instance the court considers appropriate;
or
“(B) upon motion, to permit an individual
or organization leave to file an amicus curiae
brief.
“(2) DESIGNATION.—The courts established by
subsection (a) and (b) shall each designate 1 or
more individuals who may be appointed to serve as
amicus curiae and who are determined to be eligible
for access to classified national security information
necessary to participate in matters before such
courts (if such access is necessary for participation
in the matters for which they may be appointed). In
appointing an amicus curiae pursuant to paragraph
(1), the court may choose from among those so des-
ignated.
“(3) EXPERTISE.—An individual appointed as
an amicus curiae under paragraph (1) may be an in-
dividual who possesses expertise on privacy and civil
liberties, intelligence collection, communications
technology, or any other area that may lend legal or
technical expertise to the court.
“(4) DUTIES.—An amicus curiae appointed under paragraph (1) to assist with the consideration of a covered matter shall carry out the duties assigned by the appointing court. That court may authorize the amicus curiae to review any application, certification, petition, motion, or other submission that the court determines is relevant to the duties assigned by the court.

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

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

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

“(j) REVIEW OF FISA COURT DECISIONS.—Following issuance of an order under this Act, a court estab-
lished under subsection (a) shall certify for review to the court established under subsection (b) any question of law that may affect resolution of the matter in controversy that the court determines warrants such review because of a need for uniformity or because consideration by the court established under subsection (b) would serve the interests of justice. Upon certification of a question of law under this subsection, the court established under subsection (b) may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

“(k) Review of FISA Court of Review Decisions.—

“(1) Certification.—For purposes of section 1254(2) of title 28, United States Code, the court of review established under subsection (b) shall be considered to be a court of appeals.

“(2) Amicus Curiae Briefing.—Upon certification of an application under paragraph (1), the Supreme Court of the United States may appoint an amicus curiae designated under subsection (i)(3), or any other person, to provide briefing or other assistance.”.
TITLE V—NATIONAL SECURITY
LETTER REFORM

SEC. 501. PROHIBITION ON BULK COLLECTION.

(a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS.—Section 2709(b) of title 18, United States Code, is amended in the matter preceding paragraph (1) by striking “may” and inserting “may, using a term that specifically identifies a person, entity, telephone number, or account as the basis for a request”.

(b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN INTELLIGENCE AND PROTECTIVE PURPOSES.—Section 1114(a)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(2)) is amended by striking the period and inserting “and a term that specifically identifies a customer, entity, or account to be used as the basis for the production and disclosure of financial records.”.

(c) DISCLOSURES TO FBI OF CERTAIN CONSUMER RECORDS FOR COUNTERINTELLIGENCE PURPOSES.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended—

(1) in subsection (a), by striking “that information,” and inserting “that information that includes a term that specifically identifies a consumer or ac-
count to be used as the basis for the production of that information,”;

(2) in subsection (b), by striking “written request,” and inserting “written request that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information,”; and

(3) in subsection (c), by inserting “, which shall include a term that specifically identifies a consumer or account to be used as the basis for the production of the information,” after “issue an order ex parte”.

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

SEC. 502. LIMITATIONS ON DISCLOSURE OF NATIONAL SECURITY LETTERS.

(a) Counterintelligence Access to Telephone Toll and Transactional Records.—Section 2709 of title 18, United States Code, is amended by striking subsection (c) and inserting the following new subsection:

“(c) Prohibition of Certain Disclosure.—
“(1) Prohibition.—

“(A) In general.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (d) is provided, no wire or electronic communication service provider that receives a request under subsection (b), or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

“(B) Certification.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
“(iii) interference with diplomatic relations; or

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

“(2) EXCEPTION.—

“(A) IN GENERAL.—A wire or electronic communication service provider that receives a request under subsection (b), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(i) those persons to whom disclosure is necessary in order to comply with the request;

“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

“(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (b) in the same man-
ner as the person to whom the request is issued.

“(C) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall notify the person of the applicable nondisclosure requirement.

“(D) IDENTIFICATION OF DISCLOSURE RECIPIENTS.—At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.”.

(b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN INTELLIGENCE AND PROTECTIVE PURPOSES.—Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414) is amended—

(1) in subsection (a)(5), by striking subparagraph (D); and

(2) by inserting after subsection (b) the following new subsection:

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—
“(1) Prohibition.—

“(A) In general.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (d) is provided, no financial institution that receives a request under subsection (a), or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a).

“(B) Certification.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
“(iii) interference with diplomatic relations; or

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

“(2) EXCEPTION.—

“(A) IN GENERAL.—A financial institution that receives a request under subsection (a), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(i) those persons to whom disclosure is necessary in order to comply with the request;

“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

“(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same man-
ner as the person to whom the request is
issued.

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

“(D) IDENTIFICATION OF DISCLOSURE RE-
cipients.—At the request of the Director of
the Federal Bureau of Investigation or the des-
ignee of the Director, any person making or in-
tending to make a disclosure under clause (i) or
(iii) of subparagraph (A) shall identify to the
Director or such designee the person to whom
such disclosure will be made or to whom such
disclosure was made prior to the request.”.

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

“(d) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is
issued under subparagraph (B) and notice of
the right to judicial review under subsection (e)
is provided, no consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, shall disclose or specify in any consumer report, that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a), (b), or (c).

“(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(iii) interference with diplomatic relations; or
“(iv) danger to the life or physical safety of any person.

“(2) Exception.—

“(A) In general.—A consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(i) those persons to whom disclosure is necessary in order to comply with the request;

“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

“(iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

“(B) Application.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request under subsection (a) or (b) or an order under subsection (c) is issued in the same manner as the person to whom the request is issued.
“(C) NOTICE.—Any recipient that disclosures to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(D) IDENTIFICATION OF DISCLOSURE RECIPIENTS.—At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.”.

(d) CONSUMER REPORTS.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended by striking subsection (c) and inserting the following new subsection:

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (d) is provided, no consumer reporting agency that receives a request under subsection (a), or offi-
cer, employee, or agent thereof, shall disclose or
specify in any consumer report, that a govern-
ment agency described in subsection (a) has
sought or obtained access to information or
records under subsection (a).

“(B) Certification.—The requirements
of subparagraph (A) shall apply if the head of
the government agency described in subsection
(a), or a designee, certifies that the absence of
a prohibition of disclosure under this subsection
may result in—

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

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

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

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

“(2) Exception.—

“(A) In general.—A consumer reporting
agency that receives a request under subsection
(a), or officer, employee, or agent thereof, may
disclose information otherwise subject to any applicable nondisclosure requirement to—

“(i) those persons to whom disclosure is necessary in order to comply with the request;

“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

“(iii) other persons as permitted by the head of the government agency described in subsection (a) or a designee.

“(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request under subsection (a) is issued in the same manner as the person to whom the request is issued.

“(C) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(D) IDENTIFICATION OF DISCLOSURE RECIPIENTS.—At the request of the head of the
government agency described in subsection (a) or a designee, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the head or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.”.

(e) INVESTIGATIONS OF PERSONS WITH ACCESS TO CLASSIFIED INFORMATION.—Section 802 of the National Security Act of 1947 (50 U.S.C. 3162) is amended by striking subsection (b) and inserting the following new subsection:

“(b) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) PROHIBITION.—

“(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (c) is provided, no governmental or private entity that receives a request under subsection (a), or officer, employee, or agent thereof, shall disclose to any person that an authorized investigative agency described in subsection (a) has sought or obtained access to information under subsection (a).
“(B) Certification.—The requirements of subparagraph (A) shall apply if the head of an authorized investigative agency described in subsection (a), or a designee, certifies that the absence of a prohibition of disclosure under this subsection may result in—

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

“(ii) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(iii) interference with diplomatic relations; or

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

“(2) Exception.—

“(A) In general.—A governmental or private entity that receives a request under subsection (a), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(i) those persons to whom disclosure is necessary in order to comply with the request;
“(ii) an attorney in order to obtain legal advice or assistance regarding the request; or

“(iii) other persons as permitted by the head of the authorized investigative agency described in subsection (a) or a designee.

“(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (a) in the same manner as the person to whom the request is issued.

“(C) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

“(D) IDENTIFICATION OF DISCLOSURE RECIPIENTS.—At the request of the head of an authorized investigative agency described in subsection (a), or a designee, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall
identify to the head of the authorized investiga-
tive agency or such designee the person to
whom such disclosure will be made or to whom
such disclosure was made prior to the request.”.

(f) TERMINATION PROCEDURES.—

(1) IN GENERAL.—Not later than 180 days
after the date of enactment of this Act, the Attorney
General shall adopt procedures with respect to non-
disclosure requirements issued pursuant to section
2709 of title 18, United States Code, section 626 or
627 of the Fair Credit Reporting Act (15 U.S.C.
1681u and 1681v), section 1114 of the Right to Fi-
ancial Privacy Act (12 U.S.C. 3414), or section
802 of the National Security Act of 1947 (50 U.S.C.
3162), as amended by this Act, to require—

(A) the review at appropriate intervals of
such a nondisclosure requirement to assess
whether the facts supporting nondisclosure con-
tinue to exist;

(B) the termination of such a nondisclo-
sure requirement if the facts no longer support
nondisclosure; and

(C) appropriate notice to the recipient of
the national security letter, or officer, employee,
or agent thereof, subject to the nondisclosure
requirement, and the applicable court as appropriate, that the nondisclosure requirement has been terminated.

(2) REPORTING.—Upon adopting the procedures required under paragraph (1), the Attorney General shall submit the procedures to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(g) JUDICIAL REVIEW.—Section 3511 of title 18, United States Code, is amended by striking subsection (b) and inserting the following new subsection:

“(b) NONDISCLOSURE.—

“(1) IN GENERAL.—

“(A) NOTICE.—If a recipient of a request or order for a report, records, or other information under section 2709 of this title, section 626 or 627 of the Fair Credit Reporting Act (15 U.S.C. 1681u and 1681v), section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414), or section 802 of the National Security Act of 1947 (50 U.S.C. 3162), wishes to have a court review a nondisclosure requirement imposed in connection with the request or order, the recipient may notify the Government

...
or file a petition for judicial review in any court described in subsection (a).

“(B) Application.—Not later than 30 days after the date of receipt of a notification under subparagraph (A), the Government shall apply for an order prohibiting the disclosure of the existence or contents of the relevant request or order. An application under this subparagraph may be filed in the district court of the United States for the judicial district in which the recipient of the order is doing business or in the district court of the United States for any judicial district within which the authorized investigation that is the basis for the request is being conducted. The applicable nondisclosure requirement shall remain in effect during the pendency of proceedings relating to the requirement.

“(C) Consideration.—A district court of the United States that receives a petition under subparagraph (A) or an application under subparagraph (B) should rule expeditiously, and shall, subject to paragraph (3), issue a nondisclosure order that includes conditions appropriate to the circumstances.
“(2) APPLICATION CONTENTS.—An application
for a nondisclosure order or extension thereof or a
response to a petition filed under paragraph (1)
shall include a certification from the Attorney Gen-
eral, Deputy Attorney General, an Assistant Attor-
ney General, or the Director of the Federal Bureau
of Investigation, or a designee in a position not
lower than Deputy Assistant Director at Bureau
headquarters or a Special Agent in Charge in a Bu-
reau field office designated by the Director, or in the
case of a request by a department, agency, or instru-
mentality of the Federal Government other than the
Department of Justice, the head or deputy head of
the department, agency, or instrumentality, con-
taining a statement of specific facts indicating that
the absence of a prohibition of disclosure under this
subsection may result in—

“(A) a danger to the national security of
the United States;

“(B) interference with a criminal, counter-
terrorism, or counterintelligence investigation;

“(C) interference with diplomatic relations;
or

“(D) danger to the life or physical safety
of any person.
“(3) STANDARD.—A district court of the United States shall issue a nondisclosure order or extension thereof under this subsection if the court determines that there is reason to believe that disclosure of the information subject to the nondisclosure requirement during the applicable time period may result in—

“(A) a danger to the national security of the United States;

“(B) interference with a criminal, counterterrorism, or counterintelligence investigation;

“(C) interference with diplomatic relations;

or

“(D) danger to the life or physical safety of any person.”.

SEC. 503. JUDICIAL REVIEW.

(a) COUNTERINTELLIGENCE ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS.—Section 2709 of title 18, United States Code, is amended—

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

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

“(d) JUDICIAL REVIEW.—
“(1) IN GENERAL.—A request under subsection (b) or a nondisclosure requirement imposed in connection with such request under subsection (c) shall be subject to judicial review under section 3511.

“(2) NOTICE.—A request under subsection (b) shall include notice of the availability of judicial review described in paragraph (1).”.

(b) ACCESS TO FINANCIAL RECORDS FOR CERTAIN INTELLIGENCE AND PROTECTIVE PURPOSES.—Section 1114 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414) is amended—

(1) by redesignating subsection (d) as subsection (e); and

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

“(d) JUDICIAL REVIEW.—

“(1) IN GENERAL.—A request under subsection (a) or a nondisclosure requirement imposed in connection with such request under subsection (c) shall be subject to judicial review under section 3511 of title 18, United States Code.

“(2) NOTICE.—A request under subsection (a) shall include notice of the availability of judicial review described in paragraph (1).”.
(c) **IDENTITY OF FINANCIAL INSTITUTIONS AND CREDIT REPORTS.**—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) is amended—

(1) by redesignating subsections (e) through (m) as subsections (f) through (n), respectively; and

(2) by inserting after subsection (d) the following new subsection:

“(e) **JUDICIAL REVIEW.**—

“(1) **IN GENERAL.**—A request under subsection (a) or (b) or an order under subsection (c) or a non-disclosure requirement imposed in connection with such request under subsection (d) shall be subject to judicial review under section 3511 of title 18, United States Code.

“(2) **NOTICE.**—A request under subsection (a) or (b) or an order under subsection (c) shall include notice of the availability of judicial review described in paragraph (1).”.

(d) **IDENTITY OF FINANCIAL INSTITUTIONS AND CREDIT REPORTS.**—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

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

(2) by inserting after subsection (c) the following new subsection:
“(d) Judicial Review.—

“(1) In general.—A request under subsection (a) or a non-disclosure requirement imposed in connection with such request under subsection (c) shall be subject to judicial review under section 3511 of title 18, United States Code.

“(2) Notice.—A request under subsection (a) shall include notice of the availability of judicial review described in paragraph (1).”.

(e) Investigations of Persons With Access to Classified Information.—Section 802 of the National Security Act of 1947 (50 U.S.C. 3162) is amended—

(1) by redesignating subsections (e) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(e) Judicial Review.—

“(1) In general.—A request under subsection (a) or a nondisclosure requirement imposed in connection with such request under subsection (b) shall be subject to judicial review under section 3511 of title 18, United States Code.

“(2) Notice.—A request under subsection (a) shall include notice of the availability of judicial review described in paragraph (1).”.
TITLE VI—FISA TRANSPARENCY
AND REPORTING REQUIREMENTS

SEC. 601. ADDITIONAL REPORTING ON ORDERS REQUIRING
PRODUCTION OF BUSINESS RECORDS; BUSINESS RECORDS COMPLIANCE REPORTS TO
CONGRESS.

(a) Reports Submitted to Committees.—Section 502(b) (50 U.S.C. 1862(b)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting before paragraph (6) (as so redesignated) the following new paragraphs:

“(1) a summary of all compliance reviews conducted by the Government for the production of tangible things under section 501;

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

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

“(4) the total number of applications described in section 501(b)(2)(C) made for orders approving requests for the production of call detail records;
“(5) the total number of such orders either
granted, modified, or denied;”.

(b) REPORTING ON CERTAIN TYPES OF PRODUCTION.—Section 502(c)(1) (50 U.S.C. 1862(c)(1)) is amended—

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

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

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

“(C) the total number of applications made for
orders approving requests for the production of tan-
gible things under section 501 in which the specific
selection term does not specifically identify an indi-
vidual, account, or personal device;

“(D) the total number of orders described in
subparagraph (C) either granted, modified, or de-
nied; and

“(E) with respect to orders described in sub-
paragraph (D) that have been granted or modified,
whether the court established under section 103 has
directed additional, particularized minimization pro-
dcedures beyond those adopted pursuant to section
501(g).”.

SEC. 602. ANNUAL REPORTS BY THE GOVERNMENT.

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

“SEC. 603. ANNUAL REPORTS.

“(a) Report by Director of the Administrative Office of the United States Courts.—

“(1) Report required.—The Director of the Administrative Office of the United States Courts shall annually submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate, subject to a declassification review by the Attorney General and the Director of National Intelligence, a report that includes—

“(A) the number of applications or certifications for orders submitted under each of sections 105, 304, 402, 501, 702, 703, and 704;

“(B) the number of such orders granted under each of those sections;

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

“(D) the number of applications or certifications denied under each of those sections;
“(E) the number of appointments of an individual to serve as amicus curiae under section 103, including the name of each individual appointed to serve as amicus curiae; and

“(F) the number of findings issued under section 103(i) that such appointment is not appropriate and the text of any such findings.

“(2) PUBLICATION.—The Director shall make the report required under paragraph (1) publicly available on an Internet Web site, except that the Director shall not make publicly available on an Internet Web site the findings described in subgraph (F) of paragraph (1).

“(b) MANDATORY REPORTING BY DIRECTOR OF NATIONAL INTELLIGENCE.—Except as provided in subsection (d), the Director of National Intelligence shall annually make publicly available on an Internet Web site a report that identifies, for the preceding 12-month period—

“(1) the total number of orders issued pursuant to titles I and III and sections 703 and 704 and a good faith estimate of the number of targets of such orders;

“(2) the total number of orders issued pursuant to section 702 and a good faith estimate of—
“(A) the number of search terms concerning a known United States person used to retrieve the unminimized contents of electronic communications or wire communications obtained through acquisitions authorized under such section, excluding the number of search terms used to prevent the return of information concerning a United States person; and

“(B) the number of queries concerning a known United States person of unminimized noncontents information relating to electronic communications or wire communications obtained through acquisitions authorized under such section, excluding the number of queries containing information used to prevent the return of information concerning a United States person;

“(3) the total number of orders issued pursuant to title IV and a good faith estimate of—

“(A) the number of targets of such orders; and

“(B) the number of unique identifiers used to communicate information collected pursuant to such orders;
“(4) the total number of orders issued pursuant to applications made under section 501(b)(2)(B) and a good faith estimate of—

“(A) the number of targets of such orders;

and

“(B) the number of unique identifiers used to communicate information collected pursuant to such orders;

“(5) the total number of orders issued pursuant to applications made under section 501(b)(2)(C) and a good faith estimate of—

“(A) the number of targets of such orders;

“(B) the number of unique identifiers used to communicate information collected pursuant to such orders; and

“(C) the number of search terms that included information concerning a United States person that were used to query any database of call detail records obtained through the use of such orders; and

“(6) the total number of national security letters issued and the number of requests for information contained within such national security letters.

“(c) TIMING.—The annual reports required by subsections (a) and (b) shall be made publicly available during
April of each year and include information relating to the previous calendar year.

“(d) EXCEPTIONS.—

“(1) **Statement of numerical range.**—If a good faith estimate required to be reported under subparagraph (B) of any of paragraphs (3), (4), or (5) of subsection (b) is fewer than 500, it shall be expressed as a numerical range of ‘fewer than 500’ and shall not be expressed as an individual number.

“(2) **Nonapplicability to certain information.**—

“(A) **Federal bureau of investigation.**—Paragraphs (2)(A), (2)(B), and (5)(C) of subsection (b) shall not apply to information or records held by, or queries conducted by, the Federal Bureau of Investigation.

“(B) **Electronic mail address and telephone numbers.**—Paragraph (3)(B) of subsection (b) shall not apply to orders resulting in the acquisition of information by the Federal Bureau of Investigation that does not include electronic mail addresses or telephone numbers.

“(3) **Certification.**—
“(A) IN GENERAL.—If the Director of National Intelligence concludes that a good faith estimate required to be reported under subsection (b)(2)(B) cannot be determined accurately because some but not all of the relevant elements of the intelligence community are able to provide such good faith estimate, the Director shall—

“(i) certify that conclusion in writing to the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives;

“(ii) report the good faith estimate for those relevant elements able to provide such good faith estimate;

“(iii) explain when it is reasonably anticipated that such an estimate will be able to be determined fully and accurately; and

“(iv) make such certification publicly available on an Internet Web site.
“(B) Form.—A certification described in subparagraph (A) shall be prepared in unclassified form, but may contain a classified annex.

“(C) Timing.—If the Director of National Intelligence continues to conclude that the good faith estimates described in this paragraph cannot be determined accurately, the Director shall annually submit a certification in accordance with this paragraph.

“(e) Definitions.—In this section:

“(1) Contents.—The term ‘contents’ has the meaning given that term under section 2510 of title 18, United States Code.

“(2) Electronic communication.—The term ‘electronic communication’ has the meaning given that term under section 2510 of title 18, United States Code.

“(3) National security letter.—The term ‘national security letter’ means a request for a report, records, or other information under—

“(A) section 2709 of title 18, United States Code;

“(C) subsection (a) or (b) of section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u(a), 1681u(b)); or

“(D) section 627(a) of the Fair Credit Reporting Act (15 U.S.C. 1681v(a)).

“(4) UNITED STATES PERSON.—The term ‘United States person’ means a citizen of the United States or an alien lawfully admitted for permanent residence (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))).

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

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents, as amended by section 402 of this Act, is further amended by inserting after the item relating to section 602, as added by section 402 of this Act, the following new item:

“Sec. 603. Annual reports.”.

(c) PUBLIC REPORTING ON NATIONAL SECURITY LETTERS.—Section 118(c) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (18 U.S.C. 3511 note) is amended—

(1) in paragraph (1)—
(A) in the matter preceding subparagraph (A), by striking “United States”; and

(B) in subparagraph (A), by striking “, excluding the number of requests for subscriber information”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) CONTENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each report required under this subsection shall include a good faith estimate of the total number of requests described in paragraph (1) requiring disclosure of information concerning—

“(i) United States persons; and

“(ii) persons who are not United States persons.

“(B) EXCEPTION.—With respect to the number of requests for subscriber information under section 2709 of title 18, United States Code, a report required under this subsection need not separate the number of requests into
each of the categories described in subpar-
graph (A).”.

(d) STORED COMMUNICATIONS.—Section 2702(d) of
title 18, United States Code, is amended—

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

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

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

“(3) the number of accounts from which the
Department of Justice has received voluntary disclo-
sures under subsection (c)(4).”.

SEC. 603. PUBLIC REPORTING BY PERSONS SUBJECT TO
FISA ORDERS.

(a) IN GENERAL.—Title VI (50 U.S.C. 1871 et seq.),
as amended by sections 402 and 602 of this Act, is further
amended by adding at the end the following new section:

“SEC. 604. PUBLIC REPORTING BY PERSONS SUBJECT TO
ORDERS.

“(a) REPORTING.—A person subject to a nondisclu-
sure requirement accompanying an order or directive
under this Act or a national security letter may, with re-
spect to such order, directive, or national security letter,
publicly report the following information using one of the following structures:

“(1) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

“(A) the number of national security letters received, reported in bands of 1000 starting with 0–999;

“(B) the number of customer selectors targeted by national security letters, reported in bands of 1000 starting with 0–999;

“(C) the number of orders or directives received, combined, under this Act for contents, reported in bands of 1000 starting with 0–999;

“(D) the number of customer selectors targeted under orders or directives received, combined, under this Act for contents reported in bands of 1000 starting with 0–999;

“(E) the number of orders received under this Act for noncontents, reported in bands of 1000 starting with 0–999; and

“(F) the number of customer selectors targeted under orders under this Act for noncon-
tents, reported in bands of 1000 starting with 0–999, pursuant to—

“(i) title IV;

“(ii) title V with respect to applications described in section 501(b)(2)(B);

and

“(iii) title V with respect to applications described in section 501(b)(2)(C).

“(2) A semianual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply into separate categories of—

“(A) the number of national security letters received, reported in bands of 500 starting with 0–499;

“(B) the number of customer selectors targeted by national security letters, reported in bands of 500 starting with 0–499;

“(C) the number of orders or directives received, combined, under this Act for contents, reported in bands of 500 starting with 0–499;

“(D) the number of customer selectors targeted under orders or directives received, combined, under this Act for contents, reported in bands of 500 starting with 0–499;
“(E) the number of orders received under this Act for noncontents, reported in bands of 500 starting with 0–499; and

“(F) the number of customer selectors targeted under orders received under this Act for noncontents, reported in bands of 500 starting with 0–499.

“(3) A semiannual report that aggregates the number of orders, directives, or national security letters with which the person was required to comply in the into separate categories of—

“(A) the total number of all national security process received, including all national security letters, and orders or directives under this Act, combined, reported in bands of 250 starting with 0–249; and

“(B) the total number of customer selectors targeted under all national security process received, including all national security letters, and orders or directives under this Act, combined, reported in bands of 250 starting with 0–249.

“(4) An annual report that aggregates the number of orders, directives, and national security
letters the person was required to comply with into separate categories of—

“(A) the total number of all national security process received, including all national security letters, and orders or directives under this Act, combined, reported in bands of 100 starting with 0–99; and

“(B) the total number of customer selectors targeted under all national security process received, including all national security letters, and orders or directives under this Act, combined, reported in bands of 100 starting with 0–99.

“(b) PERIOD OF TIME COVERED BY REPORTS.—

“(1) A report described in paragraph (1) or (2) of subsection (a) shall include only information—

“(A) relating to national security letters for the previous 180 days; and

“(B) relating to authorities under this Act for the 180-day period of time ending on the date that is not less than 180 days prior to the date of the publication of such report, except that with respect to a platform, product, or service for which a person did not previously receive an order or directive (not including an en-
hancement to or iteration of an existing publicly available platform, product, or service) such report shall not include any information relating to such new order or directive until 540 days after the date on which such new order or directive is received.

“(2) A report described in paragraph (3) of subsection (a) shall include only information relating to the previous 180 days.

“(3) A report described in paragraph (4) of subsection (a) shall include only information for the 1-year period of time ending on the date that is not less than 1 year prior to the date of the publication of such report.

“(c) Other Forms of Agreed to Publication.—Nothing in this section prohibits the Government and any person from jointly agreeing to the publication of information referred to in this subsection in a time, form, or manner other than as described in this section.

“(d) Definitions.—In this section:

“(1) Contents.—The term ‘contents’ has the meaning given that term under section 2510 of title 18, United States Code.
“(2) NATIONAL SECURITY LETTER.—The term ‘national security letter’ has the meaning given that term under section 603.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents, as amended by sections 402 and 602 of this Act, is further amended by inserting after the item relating to section 603, as added by section 602 of this Act, the following new item:

“Sec. 604. Public reporting by persons subject to orders.”.

SEC. 604. REPORTING REQUIREMENTS FOR DECISIONS, ORDERS, AND OPINIONS OF THE FOREIGN INTELLIGENCE SURVEILLANCE COURT AND THE FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.

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

“(1) not later than 45 days after the date on which the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review issues a decision, order, or opinion, including any denial or modification of an application under this Act, that includes significant construction or interpretation of any provision of law or results in a change of application of any provision of this Act or a novel application of any provision of this Act, a copy of such decision, order, or opinion and any
pleadings, applications, or memoranda of law associated with such decision, order, or opinion; and’’.

SEC. 605. SUBMISSION OF REPORTS UNDER FISA.

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

(b) Physical Searches.—The matter preceding paragraph (1) of section 306 (50 U.S.C. 1826) is amended—

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

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

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

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

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

“(4) each department or agency on behalf of which the Attorney General or a designated attorney for the Government has made an application for an order authorizing or approving the installation and use of a pen register or trap and trace device under this title; and

“(5) for each department or agency described in paragraph (4), each number described in paragraphs (1), (2), and (3).”.

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

TITLE VII—ENHANCED NATIONAL SECURITY PROVISIONS

SEC. 701. EMERGENCIES INVOLVING NON-UNITED STATES PERSONS.

(a) In General.—Section 105 (50 U.S.C. 1805) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (e) the following:

‘‘(f)(1) Notwithstanding any other provision of this Act, the lawfully authorized targeting of a non-United States person previously believed to be located outside the United States for the acquisition of foreign intelligence information may continue for a period not to exceed 72 hours from the time that the non-United States person is reasonably believed to be located inside the United
States and the acquisition is subject to this title or to title III of this Act, provided that the head of an element of the intelligence community—

“(A) reasonably determines that a lapse in the targeting of such non-United States person poses a threat of death or serious bodily harm to any person;

“(B) promptly notifies the Attorney General of a determination under subparagraph (A); and

“(C) requests, as soon as practicable, the employment of emergency electronic surveillance under subsection (e) or the employment of an emergency physical search pursuant to section 304(e), as warranted.

“(2) The authority under this subsection to continue the acquisition of foreign intelligence information is limited to a period not to exceed 72 hours and shall cease upon the earlier of the following:

“(A) The employment of emergency electronic surveillance under subsection (e) or the employment of an emergency physical search pursuant to section 304(e).

“(B) An issuance of a court order under this title or title III of this Act.
“(C) The Attorney General provides direction that the acquisition be terminated.

“(D) The head of the element of the intelligence community conducting the acquisition determines that a request under paragraph (1)(C) is not warranted.

“(E) When the threat of death or serious bodily harm to any person is no longer reasonably believed to exist.

“(3) Nonpublicly available information concerning unconsenting United States persons acquired under this subsection shall not be disseminated during the 72 hour time period under paragraph (1) unless necessary to investigate, reduce, or eliminate the threat of death or serious bodily harm to any person.

“(4) If the Attorney General declines to authorize the employment of emergency electronic surveillance under subsection (e) or the employment of an emergency physical search pursuant to section 304(e), or a court order is not obtained under this title or title III of this Act, information obtained during the 72 hour acquisition time period under paragraph (1) shall not be retained, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.
“(5) Paragraphs (5) and (6) of subsection (e) shall apply to this subsection.”.

(b) Notification of Emergency Employment of Electronic Surveillance.—Section 106(j) (50 U.S.C. 1806(j)) is amended by striking “section 105(e)” and inserting “subsection (e) or (f) of section 105”.

(c) Report to Congress.—Section 108(a)(2) (50 U.S.C. 1808(a)(2)) is amended—

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

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

(3) by adding at the end the following:

“(D) the total number of authorizations under section 105(f) and the total number of subsequent emergency employments of electronic surveillance under section 105(e) or emergency physical searches pursuant to section 301(e).”.

SEC. 702. PRESERVATION OF TREATMENT OF NON-UNITED STATES PERSONS TRAVELING OUTSIDE THE UNITED STATES AS AGENTS OF FOREIGN POWERS.

Section 101(b)(1) is amended—
(1) in subparagraph (A), by inserting before the semicolon at the end the following: “, irrespective of whether the person is inside the United States”; and

(2) in subparagraph (B)—

(A) by striking “of such person’s presence in the United States”; and

(B) by striking “such activities in the United States” and inserting “such activities”.

SEC. 703. IMPROVEMENT TO INVESTIGATIONS OF INTERNATIONAL PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

Section 101(b)(1) is further amended by striking subparagraph (E) and inserting the following new subparagraph (E):

“(E) engages in the international proliferation of weapons of mass destruction, or activities in preparation therefor, for or on behalf of a foreign power, or knowingly aids or abets any person in the conduct of such proliferation or activities in preparation therefor, or knowingly conspires with any person to engage in such proliferation or activities in preparation therefor; or”.
SEC. 704. INCREASE IN PENALTIES FOR MATERIAL SUPPORT OF FOREIGN TERRORIST ORGANIZATIONS.

Section 2339B(a)(1) of title 18, United States Code, is amended by striking “15 years” and inserting “20 years”.

SEC. 705. SUNSETS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (50 U.S.C. 1805 note) is amended by striking “June 1, 2015” and inserting “December 15, 2019”.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 1801 note) is amended by striking “June 1, 2015” and inserting “December 15, 2019”.

(c) CONFORMING AMENDMENT.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (50 U.S.C. 1805 note), as amended by subsection (a), is further amended by striking “sections 501, 502, and” and inserting “title V and section”.
TITLE VIII—SAFETY OF MARITIME NAVIGATION AND NUCLEAR TERRORISM CONVENTIONS IMPLEMENTATION
Subtitle A—Safety of Maritime Navigation

SEC. 801. AMENDMENT TO SECTION 2280 OF TITLE 18, UNITED STATES CODE.

Section 2280 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(i), by striking “a ship flying the flag of the United States” and inserting “a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46)”;

(B) in paragraph (1)(A)(ii), by inserting “, including the territorial seas” after “in the United States”; and

(C) in paragraph (1)(A)(iii), by inserting “, by a United States corporation or legal entity,” after “by a national of the United States”; and

(2) in subsection (c), by striking “section 2(e)” and inserting “section 13(e)”;

(3) by striking subsection (d);

(4) by striking subsection (e) and inserting after subsection (e) the following:

“(d) DEFINITIONS.—As used in this section, section 2280a, section 2281, and section 2281a, the term—

“(1) ‘applicable treaty’ means—

“(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970;

“(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971;

“(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;


“(E) the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979;

“(G) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;

“(H) International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; and


“(2) ‘armed conflict’ does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

“(3) ‘biological weapon’ means—

“(A) microbial or other biological agents, or toxins whatever their origin or method of
production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes; or

“(B) weapons, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

“(4) ‘chemical weapon’ means, together or separately—

“(A) toxic chemicals and their precursors, except where intended for—

“(i) industrial, agricultural, research, medical, pharmaceutical, or other peaceful purposes;

“(ii) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

“(iii) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;

or

“(iv) law enforcement including domestic riot control purposes,
as long as the types and quantities are consistent with such purposes;

“(B) munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munitions and devices; and

“(C) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (B);

“(5) ‘covered ship’ means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country;

“(6) ‘explosive material’ has the meaning given the term in section 841(c) and includes explosive as defined in section 844(j) of this title;

“(7) ‘infrastructure facility’ has the meaning given the term in section 2332f(e)(5) of this title;

“(8) ‘international organization’ has the meaning given the term in section 831(f)(3) of this title;
“(9) ‘military forces of a state’ means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

“(10) ‘national of the United States’ has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));


“(12) ‘Non-Proliferation Treaty State Party’ means any State Party to the Non-Proliferation Treaty, to include Taiwan, which shall be considered to have the obligations under the Non-Proliferation Treaty of a party to that treaty other than a Nuclear Weapon State Party to the Non-Proliferation Treaty;

“(13) ‘Nuclear Weapon State Party to the Non-Proliferation Treaty’ means a State Party to the Non-Proliferation Treaty that is a nuclear-weapon
State, as that term is defined in Article IX(3) of the Non-Proliferation Treaty;

“(14) ‘place of public use’ has the meaning given the term in section 2332f(e)(6) of this title;

“(15) ‘precursor’ has the meaning given the term in section 229F(6)(A) of this title;

“(16) ‘public transport system’ has the meaning given the term in section 2332f(e)(7) of this title;

“(17) ‘serious injury or damage’ means—

“(A) serious bodily injury,

“(B) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss, or

“(C) substantial damage to the environment, including air, soil, water, fauna, or flora;

“(18) ‘ship’ means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;
“(19) ‘source material’ has the meaning given that term in the International Atomic Energy Agency Statute, done at New York on 26 October 1956;

“(20) ‘special fissionable material’ has the meaning given that term in the International Atomic Energy Agency Statute, done at New York on 26 October 1956;

“(21) ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law;

“(22) ‘toxic chemical’ has the meaning given the term in section 229F(8)(A) of this title;

“(23) ‘transport’ means to initiate, arrange or exercise effective control, including decisionmaking authority, over the movement of a person or item; and

“(24) ‘United States’, when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and all territories and possessions of the United States.”; and

(5) by inserting after subsection (d) (as added by paragraph (4) of this section) the following:

“(e) EXCEPTIONS.—This section shall not apply to—
“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

“(2) activities undertaken by military forces of a state in the exercise of their official duties.

“(f) Delivery of Suspected Offender.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under section 2280 or section 2280a may deliver such person to the authorities of a country that is a party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a state party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master’s intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities
of such country the evidence in the master's possession
that pertains to the alleged offense.

“(g)(1) CIVIL FORFEITURE.—Any real or personal
property used or intended to be used to commit or to fa-
cilitate the commission of a violation of this section, the
gross proceeds of such violation, and any real or personal
property traceable to such property or proceeds, shall be
subject to forfeiture.

“(2) APPLICABLE PROCEDURES.—Seizures and for-
feitures under this section shall be governed by the provi-
sions of chapter 46 of title 18, United States Code, relat-
ing to civil forfeitures, except that such duties as are im-
posed upon the Secretary of the Treasury under the cus-
toms laws described in section 981(d) shall be performed
by such officers, agents, and other persons as may be des-
ignated for that purpose by the Secretary of Homeland
Security, the Attorney General, or the Secretary of De-
fense.”.

SEC. 802. NEW SECTION 2280A OF TITLE 18, UNITED STATES
CODE.

(a) IN GENERAL.—Chapter 111 of title 18, United
States Code, is amended by adding after section 2280 the
following new section:
§ 2280a. Violence against maritime navigation and maritime transport involving weapons of mass destruction

(a) Offenses.—

(1) In general.—Subject to the exceptions in subsection (c), a person who unlawfully and intentionally—

(A) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act—

(i) uses against or on a ship or discharges from a ship any explosive or radioactive material, biological, chemical, or nuclear weapon or other nuclear explosive device in a manner that causes or is likely to cause death to any person or serious injury or damage;

(ii) discharges from a ship oil, liquefied natural gas, or another hazardous or noxious substance that is not covered by clause (i), in such quantity or concentration that causes or is likely to cause death to any person or serious injury or damage; or

(ii)
“(iii) uses a ship in a manner that causes death to any person or serious injury or damage;

“(B) transports on board a ship—

“(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death to any person or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act;

“(ii) any biological, chemical, or nuclear weapon or other nuclear explosive device, knowing it to be a biological, chemical, or nuclear weapon or other nuclear explosive device;

“(iii) any source material, special fissible material, or equipment or material especially designed or prepared for the processing, use, or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an Inter-
national Atomic Energy Agency comprehensive safeguards agreement, except where—

“(I) such item is transported to or from the territory of, or otherwise under the control of, a Non-Proliferation Treaty State Party; and

“(II) the resulting transfer or receipt (including internal to a country) is not contrary to the obligations under the Non-Proliferation Treaty of the Non-Proliferation Treaty State Party from which, to the territory of which, or otherwise under the control of which such item is transferred;

“(iv) any equipment, materials, or software or related technology that significantly contributes to the design or manufacture of a nuclear weapon or other nuclear explosive device, with the intention that it will be used for such purpose, except where—

“(I) the country to the territory of which or under the control of which such item is transferred is a Nuclear
Weapon State Party to the Non-Proliferation Treaty; and

“(II) the resulting transfer or receipt (including internal to a country) is not contrary to the obligations under the Non-Proliferation Treaty of a Non-Proliferation Treaty State Party from which, to the territory of which, or otherwise under the control of which such item is transferred;

“(v) any equipment, materials, or software or related technology that significantly contributes to the delivery of a nuclear weapon or other nuclear explosive device, with the intention that it will be used for such purpose, except where—

“(I) such item is transported to or from the territory of, or otherwise under the control of, a Non-Proliferation Treaty State Party; and

“(II) such item is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a Nuclear Weapon State Party to the Non-Proliferation Treaty; or
“(vi) any equipment, materials, or software or related technology that significantly contributes to the design, manufacture, or delivery of a biological or chemical weapon, with the intention that it will be used for such purpose;

“(C) transports another person on board a ship knowing that the person has committed an act that constitutes an offense under section 2280 or subparagraph (A), (B), (D), or (E) of this section or an offense set forth in an applicable treaty, as specified in section 2280(d)(1), and intending to assist that person to evade criminal prosecution;

“(D) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (C), or subsection (a)(2), to the extent that the subsection (a)(2) offense pertains to subparagraph (A); or

“(E) attempts to do any act prohibited under subparagraph (A), (B) or (D), or conspires to do any act prohibited by subparagraphs (A) through (E) or subsection (a)(2),
shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be imprisoned for any term of years or for life.

“(2) Threats.—A person who threatens, with apparent determination and will to carry the threat into execution, to do any act prohibited under paragraph (1)(A) shall be fined under this title, imprisoned not more than 5 years, or both.

“(b) Jurisdiction.—There is jurisdiction over the activity prohibited in subsection (a)—

“(1) in the case of a covered ship, if—

“(A) such activity is committed—

“(i) against or on board a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46) at the time the prohibited activity is committed;

“(ii) in the United States, including the territorial seas; or

“(iii) by a national of the United States, by a United States corporation or legal entity, or by a stateless person whose habitual residence is in the United States;
“(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

“(C) the offender is later found in the United States after such activity is committed;

“(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; or

“(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

“(c) EXCEPTIONS.—This section shall not apply to—

“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

“(2) activities undertaken by military forces of a state in the exercise of their official duties.

“(d)(1) CIVIL FORFEITURE.—Any real or personal property used or intended to be used to commit or to facilitate the commission of a violation of this section, the gross proceeds of such violation, and any real or personal property traceable to such property or proceeds, shall be subject to forfeiture.
“(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Attorney General, or the Secretary of Defense.”.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding after the item relating to section 2280 the following new item:

“2280a. Violence against maritime navigation and maritime transport involving weapons of mass destruction.”.

SEC. 803. AMENDMENTS TO SECTION 2281 OF TITLE 18, UNITED STATES CODE.

Section 2281 of title 18, United States Code, is amended—

(1) in subsection (c), by striking “section 2(c)” and inserting “section 13(c)”;

(2) in subsection (d), by striking the definitions of “national of the United States,” “territorial sea of the United States,” and “United States”; and
(3) by inserting after subsection (d) the fol-
lowing:

“(e) EXCEPTIONS.—This section does not apply to—

“(1) the activities of armed forces during an
armed conflict, as those terms are understood under
the law of war, which are governed by that law; or

“(2) activities undertaken by military forces of
a state in the exercise of their official duties.”.

SEC. 804. NEW SECTION 2281A OF TITLE 18, UNITED STATES

CODE.

(a) IN GENERAL.—Chapter 111 of title 18, United
States Code, is amended by adding after section 2281 the
following new section:

“§ 2281a. Additional offenses against maritime fixed
platforms

“(a) OFFENSES.—

“(1) IN GENERAL.—A person who unlawfully
and intentionally—

“(A) when the purpose of the act, by its
nature or context, is to intimidate a population,
or to compel a government or an international
organization to do or to abstain from doing any
act—

“(i) uses against or on a fixed plat-
form or discharges from a fixed platform
any explosive or radioactive material, bi-
ological, chemical, or nuclear weapon in a
manner that causes or is likely to cause
death or serious injury or damage; or

“(ii) discharges from a fixed platform
oil, liquefied natural gas, or another haz-
ardous or noxious substance that is not
covered by clause (i), in such quantity or
concentration that causes or is likely to
cause death or serious injury or damage;

“(B) injures or kills any person in connec-
tion with the commission or the attempted com-
mision of any of the offenses set forth in sub-
paragraph (A); or

“(C) attempts or conspires to do anything
prohibited under subparagraph (A) or (B),
shall be fined under this title, imprisoned not more
than 20 years, or both; and if death results to any
person from conduct prohibited by this paragraph,
shall be imprisoned for any term of years or for life.

“(2) THREAT TO SAFETY.—A person who
threatens, with apparent determination and will to
carry the threat into execution, to do any act prohib-
ited under paragraph (1)(A), shall be fined under
this title, imprisoned not more than 5 years, or both.
“(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

“(1) such activity is committed against or on board a fixed platform—

“(A) that is located on the continental shelf of the United States;

“(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

“(C) in an attempt to compel the United States to do or abstain from doing any act;

“(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured, or killed; or

“(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

“(c) EXCEPTIONS.—This section does not apply to—

“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or
“(2) activities undertaken by military forces of a state in the exercise of their official duties.

“(d) DEFINITIONS.—In this section—

“(1) ‘continental shelf’ means the sea-bed and subsoil of the submarine areas that extend beyond a country’s territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea; and

“(2) ‘fixed platform’ means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.”.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding after the item relating to section 2281 the following new item:

“2281a. Additional offenses against maritime fixed platforms.”.

SEC. 805. ANCILLARY MEASURE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting “2280a (relating to maritime safety),” before “2281”, and by striking “2281” and inserting “2281 through 2281a”.

Subtitle B—Prevention of Nuclear Terrorism

SEC. 811. NEW SECTION 2332I OF TITLE 18, UNITED STATES CODE.

(a) In General.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h the following:

“§ 2332i. Acts of nuclear terrorism

“(a) Offenses.—

“(1) In general.—Whoever knowingly and unlawfully—

“(A) possesses radioactive material or makes or possesses a device—

“(i) with the intent to cause death or serious bodily injury; or

“(ii) with the intent to cause substantial damage to property or the environment; or

“(B) uses in any way radioactive material or a device, or uses or damages or interferes with the operation of a nuclear facility in a manner that causes the release of or increases the risk of the release of radioactive material, or causes radioactive contamination or exposure to radiation—
“(i) with the intent to cause death or serious bodily injury or with the knowledge that such act is likely to cause death or serious bodily injury;

“(ii) with the intent to cause substantial damage to property or the environment or with the knowledge that such act is likely to cause substantial damage to property or the environment; or

“(iii) with the intent to compel a person, an international organization or a country to do or refrain from doing an act, shall be punished as prescribed in subsection (c).

“(2) THREATS.—Whoever, under circumstances in which the threat may reasonably be believed, threatens to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c). Whoever demands possession of or access to radioactive material, a device or a nuclear facility by threat or by use of force shall be punished as prescribed in subsection (c).

“(3) ATTEMPTS AND CONSPIRACIES.—Whoever attempts to commit an offense under paragraph (1) or conspires to commit an offense under paragraph
(1) or (2) shall be punished as prescribed in sub-
section (e).

“(b) JURISDICTION.—Conduct prohibited by sub-
section (a) is within the jurisdiction of the United States
if—

“(1) the prohibited conduct takes place in the
United States or the special aircraft jurisdiction of
the United States;

“(2) the prohibited conduct takes place outside
of the United States and—

“(A) is committed by a national of the
United States, a United States corporation or
legal entity or a stateless person whose habitual
residence is in the United States;

“(B) is committed on board a vessel of the
United States or a vessel subject to the jurisdic-
tion of the United States (as defined in section
70502 of title 46) or on board an aircraft that
is registered under United States law, at the
time the offense is committed; or

“(C) is committed in an attempt to compel
the United States to do or abstain from doing
any act, or constitutes a threat directed at the
United States;
“(3) the prohibited conduct takes place outside of the United States and a victim or an intended victim is a national of the United States or a United States corporation or legal entity, or the offense is committed against any state or government facility of the United States; or

“(4) a perpetrator of the prohibited conduct is found in the United States.

“(e) PENALTIES.—Whoever violates this section shall be fined not more than $2,000,000 and shall be imprisoned for any term of years or for life.

“(d) NONAPPLICABILITY.—This section does not apply to—

“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

“(2) activities undertaken by military forces of a state in the exercise of their official duties.

“(e) DEFINITIONS.—As used in this section, the term—

“(1) ‘armed conflict’ has the meaning given that term in section 2332f(e)(11) of this title;

“(2) ‘device’ means:

“(A) any nuclear explosive device; or
“(B) any radioactive material dispersal or radiation-emitting device that may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or the environment;

“(3) ‘international organization’ has the meaning given that term in section 831(f)(3) of this title;

“(4) ‘military forces of a state’ means the armed forces of a country that are organized, trained and equipped under its internal law for the primary purpose of national defense or security and persons acting in support of those armed forces who are under their formal command, control and responsibility;

“(5) ‘national of the United States’ has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(6) ‘nuclear facility’ means:

“(A) any nuclear reactor, including reactors on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;
“(B) any plant or conveyance being used for the production, storage, processing or transport of radioactive material; or

“(C) a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or interference with such facility could lead to the release of significant amounts of radiation or radioactive material;

“(7) ‘nuclear material’ has the meaning given that term in section 831(f)(1) of this title;

“(8) ‘radioactive material’ means nuclear material and other radioactive substances that contain nuclides that undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and that may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment;

“(9) ‘serious bodily injury’ has the meaning given that term in section 831(f)(4) of this title;
“(10) ‘state’ has the same meaning as that term has under international law, and includes all political subdivisions thereof;

“(11) ‘state or government facility’ has the meaning given that term in section 2332f(e)(3) of this title;

“(12) ‘United States corporation or legal entity’ means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession or district of the United States;

“(13) ‘vessel’ has the meaning given that term in section 1502(19) of title 33; and

“(14) ‘vessel of the United States’ has the meaning given that term in section 70502 of title 46.”.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332h the following:

“2332i. Acts of nuclear terrorism.”.

(c) Disclaimer.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law that might pertain to the underlying conduct.

(d) Inclusion in Definition of Federal Crimes of Terrorism.—Section 2332b(g)(5)(B) of title 18,
United States Code, is amended by inserting “2332i (relating to acts of nuclear terrorism),” before “2339 (relating to harboring terrorists)”.

**SEC. 812. AMENDMENT TO SECTION 831 OF TITLE 18, UNITED STATES CODE.**

Section 831 of title 18, United States Code, is amended—

(a) in subsection (a)—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9);

(2) by inserting after paragraph (2) the following:

“(3) without lawful authority, intentionally carries, sends or moves nuclear material into or out of a country;”;

(3) in paragraph (8), as redesignated, by striking “an offense under paragraph (1), (2), (3), or (4)” and inserting “any act prohibited under paragraphs (1) through (5)”;

and

(4) in paragraph (9), as redesignated, by striking “an offense under paragraph (1), (2), (3), or (4)” and inserting “any act prohibited under paragraphs (1) through (7)”;

(b) in subsection (b)—
(1) in paragraph (1), by striking ``(7)'' and insert- 
ing ``(8)''; and

(2) in paragraph (2), by striking ``(8)'' and in- 
serting ``(9)'';

(c) in subsection (c)—

(1) in subparagraph (2)(A), by adding after 
``United States'' the following: ``or a stateless person 
whose habitual residence is in the United States'';

(2) by striking paragraph (5);

(3) in paragraph (4), by striking ``or'' at the 
end; and

(4) by inserting after paragraph (4), the fol- 
lowing:

``(5) the offense is committed on board a vessel 
of the United States or a vessel subject to the juris- 
diction of the United States (as defined in section 
70502 of title 46) or on board an aircraft that is 
registered under United States law, at the time the 
offense is committed;

``(6) the offense is committed outside the 
United States and against any state or government 
facility of the United States; or

``(7) the offense is committed in an attempt to 
compel the United States to do or abstain from
doing any act, or constitutes a threat directed at the United States.”;

(d) by redesignating subsections (d) through (f) as (e) through (g), respectively;

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

“(d) NONAPPLICABILITY.—This section does not apply to—

“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

“(2) activities undertaken by military forces of a state in the exercise of their official duties.”; and

(f) in subsection (g), as redesignated—

(1) in paragraph (6), by striking “and” at the end;

(2) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (7), the following:

“(8) the term ‘armed conflict’ has the meaning given that term in section 2332f(e)(11) of this title;

“(9) the term ‘military forces of a state’ means the armed forces of a country that are organized, trained and equipped under its internal law for the primary purpose of national defense or security and
persons acting in support of those armed forces who are under their formal command, control and responsibility;

“(10) the term ‘state’ has the same meaning as that term has under international law, and includes all political subdivisions thereof;

“(11) the term ‘state or government facility’ has the meaning given that term in section 2332f(e)(3) of this title; and

“(12) the term ‘vessel of the United States’ has the meaning given that term in section 70502 of title 46.”.