[DISCUSSION DRAFT]

113TH CONGRESS
2D SESSION

H. R. ______

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “End Bulk Collection
5 Act of 2014”.
SEC. 2. PROHIBITION ON BULK COLLECTION OF CALL DETAIL RECORDS.

Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in paragraph (1), by striking "other items" and inserting "other items, but not including call detail records"; and

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

"(4) In this subsection, the term 'call detail records' means communications routing information, including an original or terminating telephone number, an International Mobile Subscriber Identity, an International Mobile Station Equipment Identity, a trunk identifier, a telephone calling card number, the time or duration of a call, or original or terminating text-message numerical information."

SEC. 3. PROHIBITION ON BULK COLLECTION OF ELECTRONIC COMMUNICATIONS RECORDS.

(a) In General.—Notwithstanding any other provision of law, the Federal Government may not acquire under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) records of any electronic communication without the use of specific identifiers or selection terms.
(b) **Definition of Electronic Communications.**—In this section, the term “electronic communication” has the meaning given such term under section 2510 of title 18, United States Code.

**SEC. 4. Prohibition on Bulk Collection of Certain Business Records.**

Notwithstanding any other provision of law, the Federal Government may not acquire under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) library circulation records, library patron lists, book sales records, book customer lists, firearm sales records, tax return records, educational records, or medical records containing information that would identify a person without the use of specific identifiers or selection terms.

**SEC. 5. Probable Cause Required to Acquire Content of Communications of United States Persons.**

(a) **Probable Cause Required.**—Notwithstanding any other provision of law, the Federal Government may not target a United States person under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for purposes of acquiring the content of the communications of such United States person without a court order supported by probable cause.
(b) DEFINITIONS.—In this section, the term "contents" has the meaning given such term in section 2510 of title 18, United States Code.

SEC. 6. PROHIBITION ON STORING ILLLEGALLY COLLECTED DATA AT NATIONAL SECURITY AGENCY OR OTHER FACILITIES.

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

SEC. 7. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED ACCESS TO COLLECTED DATA.

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

[(1) Subsection (a) is amended—]

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

[(B) in paragraph (7)(C), by adding "or" at the end; and]

[(C) by inserting after paragraph (7)(C) the following:]

[(8) accesses a computer without authorization or exceeds authorized access and thereby obtains information from any department or agency of]
the United States knowing or having reason to know
that such computer was operated by or on behalf of
the United States and that such information was ac-
quired by the United States pursuant to the Foreign
Intelligence Surveillance Act of 1978 (50 U.S.C.
1801 et seq.) pursuant to an order issued by a court
established under section 103 of that Act (50 U.S.C.
1803).”.

[(2) Subsection (c) is amended—]

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

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

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

[SEC. 8. APPOINTMENT OF AMICUS CURIAE.

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

[“(i) AMICUS CURIAE.—]

[“(1) AUTHORIZATION.—Notwithstanding any
other provision of law, a court established under
subsection (a) or (b) may, consistent with the re-
quirement of subsection (c) and any other statutory
requirement that the court act expeditiously or within a stated time, to appoint amicus curiae to assist the court in the consideration of a covered application.]

[“(2) DESIGNATION.—The courts established by subsection (a) and (b) shall each designate 1 or more individuals who have been determined by appropriate executive branch officials to be eligible for access to classified information who may be appointed to serve as amicus curiae. In appointing an amicus curiae pursuant to paragraph (1), the court may choose from among those so designated.]

[“(3) EXPERTISE.—An individual appointed as an amicus curiae under paragraph (1) may be a special counsel or an expert on privacy and civil liberties, intelligence collection, telecommunications, or any other area that may lend legal or technical expertise to the court.]

[“(4) DUTIES.—An amicus curiae appointed under paragraph (1) to assist with the consideration of a covered application shall carry out the duties assigned by the appointing court. That court may authorize, to the extent consistent with the case or controversy requirements of Article III of the Constitution of the United States and the national secu-
rity of the United States, the amicus curiae to re-
view any application, certification, petition, motion,
or other submission that the court determines is re-
evant 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 (in-
cluding 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 des-
ignation, appointment, removal, training, support, or
other administration of an amicus curiae appointed
under paragraph (1) in a manner that is not inco-
sistent with this subsection.]

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

individual appointed as an amicus curiae appointed during such period.]

[(9) DEFINITIONS.—In this subsection:]

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

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

[(ii) the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Represen-
tatives.]

[(B) COVERED APPLICATION.—The term ‘covered application’ means an application for an order or review made to a court established under subsection (a) or (b)—]

[(i) that, in the opinion of such a court, presents a novel or significant interpretation of the law; and]

[(ii) that is—]

[(I) an application for an order under this title, title III, IV, or V of this Act, or section 703 or 704 of this Act;]
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[“(II) a review of a certification or procedures under section 503 or 702 of this Act; or]

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

[SEC. 9. TEMPORARY TARGETING OF PERSONS OTHER THAN UNITED STATES PERSONS TRAVELING INTO THE UNITED STATES.

(a) In General.—Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—]

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

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

[“(f)(1) Notwithstanding any other provision of this Act, acquisition of foreign intelligence information by targeting a non-United States person reasonably believed to be located outside the United States that was lawfully initiated by an element of the intelligence community may continue for a transitional period not to exceed 72 hours from the time when it is recognized that the non-United States person is reasonably believed to be located inside]
the United States and that the acquisition is subject to
this title or title III of this Act, provided that the head
of the element determines that there exists an exigent cir-
cumstance and—]

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

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

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

[(3) Subject to paragraph (4), the authority to ac-
quire foreign intelligence information under this sub-
section shall terminate upon any of the following, which-
ever occurs first—]
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1 ""(A) 72 hours have elapsed since the commencement of the transitional period;"
2 ""(B) the Attorney General has directed that the acquisition be terminated; or"
3 ""(C) the exigent circumstance is no longer reasonably believed to exist."
4 ""(4) If the Attorney General authorizes an emergency acquisition pursuant to this Act, acquisition of foreign intelligence information may continue for the period of time the emergency authorization by the Attorney General or any subsequent court order authorizing the acquisition remains in effect."
5 ""(5) If the Attorney General authorizes an emergency authorization during the transitional period, the acquisition of foreign intelligence shall continue during any transition to, and consistent with, the Attorney General emergency authorization or court order."
6 ""(6) Any information of or concerning unconsenting United States persons acquired during the transitional period may only be disseminated during the transitional period if necessary to investigate, prevent, reduce, or eliminate the exigent circumstance or if it indicates a threat of death or serious bodily harm to any person."
7 ""(7) If during the transition period a request for an emergency authorization from the Attorney General
pursuant to this Act for continued acquisition of foreign intelligence is not approved or an order from a court is not obtained to continue the acquisition, information obtained during the transitional period 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.

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

[(b) NOTIFICATION OF EMERGENCY EMPLOYMENT OF ELECTRONIC SURVEILLANCE.—Section 106(j) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806(j)) is amended by striking “section 105(e)” and inserting “subsection (e) or (f) of section 105”.

[SEC. 10. CONFIRMATION OF APPOINTMENT OF THE DIRECTOR OF THE NATIONAL SECURITY AGENCY.]

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

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

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

[“(a)(1) There is a Director of the National Security Agency.”]
"(2) The Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate."

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

(b) Position of Importance and Responsibility.—The President may designate the Director of the National Security Agency as a position of importance and responsibility under section 601 of title 10, United States Code.

(c) Effective Date and Applicability.—

(1) In General.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply upon the earlier of—

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

[(B) the date of the cessation of the per-
formance of the duties of such Director by the
individual performing such duties as of the date
of the enactment of this Act.]

[(2) Positions of importance and respon-
sibility.—Subsection (b) shall take effect on the
date of the enactment of this Act.]

[SEC. 11. PRESIDENTIAL APPOINTMENT AND SENATE CON-
FIRMATION OF THE INSPECTOR GENERAL OF
THE NATIONAL SECURITY AGENCY.

[(a) In general.—The Inspector General Act of
1978 (5 U.S.C. App.) is amended—]

[(1) in section 8G(a)(2), by striking “the Na-
tional Security Agency,”; and]

[(2) in section 12—]

[(A) in paragraph (1), by striking “or the
Federal Cochairpersons of the Commissions es-
established under section 15301 of title 40,
United States Code” and inserting “the Federal
Cochairpersons of the Commissions established
under section 15301 of title 40, United States
Code; or the Director of the National Security
Agency”; and]
[(B) in paragraph (2), by striking "or the
Commissions established under section 15301
of title 40, United States Code" and inserting
"the Commissions established under section
15301 of title 40, United States Code, or the
National Security Agency"][

[(b) EFFECTIVE DATE; INCUMBENT.—]

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

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

SEC. 12. DECLASSIFICATION OF DECISIONS, ORDERS, AND
OPINIONS.

(a) DECLASSIFICATION.—Title VI of the Foreign In-
seq.) is amended—
1 (1) in the heading, by striking "REPORTING REQUIREMENT" and inserting "OVERSIGHT"; and
2
3 (2) by adding at the end the following new section:
4
5 "SEC. 602. DECLASSIFICATION OF SIGNIFICANT DECISIONS, ORDERS, AND OPINIONS.
6 "(a) DECLASSIFICATION REQUIRED.—Subject to subsection (b), the Director of National Intelligence shall conduct a declassification review of each decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act and, consistent with that review, make publicly available to the greatest extent practicable each such decision, order, or opinion.
7 "(b) REDACTED FORM.—The Director of National Intelligence may satisfy the requirement under subsection (a) to make a decision, order, or opinions described in such subsection publicly available to the greatest extent practicable by making such decision, order, or opinion publicly available in redacted form.
8 "(c) NATIONAL SECURITY WAIVER.—The Director of National Intelligence may waive the requirement to declas-"
sify and make publicly available a particular decision,
order, or opinion under subsection (a) if the Director—
“(1) determines that a waiver of such require-
ment is necessary to protect the national security of
the United States or properly classified intelligence
sources or methods; and
“(2) makes publicly available an unclassified
summary of such decision, order, or opinion.”.

(b) TABLE OF CONTENTS AMENDMENTS.—The table
of contents in the first section of such Act is amended—
(1) by striking the item relating to title VI and
inserting the following new item:
“TITLE VI—OVERSIGHT”; AND
(2) by inserting after the item relating to sec-
tion 601 the following new item:
“Sec. 602. Declassification of significant decisions, orders, and opinions.”.

SEC. 13. PUBLIC REPORTING ON INCIDENTAL COLLECTION
OF UNITED STATES PERSON INFORMATION.
Section 601 of the Foreign Intelligence Surveillance
Act of 1978 (50 U.S.C. 1871) is amended—
(1) by redesignating subsection (e) as sub-
section (f); and
(2) by inserting after subsection (d) the fol-
lowing new subsection:
“(e) PUBLIC REPORTING ON INCIDENTAL COLLEC-
TION OF UNITED STATES PERSON INFORMATION.—The
Attorney General shall annually make publicly available a report describing the number of identified instances in which the contents of a communication of a United States person was acquired under this Act when the acquisition authorized by this Act that resulted in the collection of such contents could not reasonably have been anticipated to capture such contents.”.

SEC. 14. ANNUAL REPORTS ON VIOLATIONS OF LAW OR EXECUTIVE ORDER.

(a) In General.—Title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) is amended by adding at the end the following:

“SEC. 509. ANNUAL REPORT ON VIOLATIONS OF LAW OR EXECUTIVE ORDER.

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

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

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

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

SEC. 15. PERIODIC REVIEW OF INTELLIGENCE COMMUNITY

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

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

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

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

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

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

“(1) Requirement for immediate review.—Each head of an element of the intelligence community that has not obtained the approval of the Attorney General for the procedures, in their entirety, required by section 2.3 of Executive Order 12333 (50 U.S.C. 3001 note) within 5 years prior to the date of the enactment of the End Bulk Collection Act of 2014, shall initiate, not later than 180 days after such date of enactment, a review of the procedures for such element, in accordance with paragraph (3).

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 16. PROCEDURES FOR TARGETED ACQUISITIONS OF TERRORIST AND FOREIGN AGENT NON-CONTROLLED COMMUNICATIONS RECORDS.

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

"SEC. 503. PROCEDURES FOR TARGETED ACQUISITIONS OF TERRORIST AND FOREIGN AGENT NON-CONTROLLED COMMUNICATIONS RECORDS.

"(a) Authorization.—Notwithstanding any other provision of law, upon the issuance of an order in accordance with subsection (i)(3) or a determination under subsection (c)(2), the Attorney General and the Director of National Intelligence may authorize jointly, for a period of up to [1 year] from the effective date of the authorization, the acquisition from an electronic communication service provider of records created as a result of commu-
ninations of an individual or facility who, based on reason-
able and articulable suspicion, is—

"(1) a foreign power or the agent of a foreign
power;

"(2) associated with a foreign power or the
agent of a foreign power; or

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

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

"(1) not to acquire—

"(A) the contents associated with any com-
munication;

"(B) records of wire or electronic commu-
nications without the use of specific identifiers
or selection terms;

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

"(D) the name, address, social security
number, employer or taxpayer identification
number, date of birth, or credit card number of
any United States person; and
“(2) to comply with the fourth amendment to
the Constitution of the United States.

“(e) CONDUCT OF ACQUISITION.—

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

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

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

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

“(3) TIMING OF DETERMINATION.—The Attor-
ney General and the Director of National Intel-
ligence may make the determination under para-
graph (2)—

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

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

"(d) SELECTION PROCEDURES.—

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

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

"(e) CIVIL LIBERTIES AND PRIVACY PROTECTION
PROCEDURES.—

"(1) REQUIREMENT TO ADOPT.—The Attor-
ney General, in consultation with the Director of
National Intelligence, shall adopt civil liberties and
privacy protection procedures that are reasonably designed to—

[A minimize the impact of any acquisition authorized by (a) on the privacy and civil liberties of United States persons; and]

[B reasonably limit the receipt, retention, use, and disclosure of communications records associated with a specific person when such records are not necessary to understand foreign intelligence information or assess the importance of such information.]

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

(f) GUIDELINES FOR COMPLIANCE WITH LIMITATIONS.—

(1) REQUIREMENT TO ADOPT.—The Attorney General, in consultation with the Director of National Intelligence, shall adopt guidelines to ensure—

[A compliance with the requirements and limitations under subsections (a) and (b); and

[B] that an application for a court order is filed as required by this title.
"(2) Submission of Guidelines.—The Attorney General shall provide the guidelines adopted in accordance with paragraph (1)—

"(A) the congressional intelligence committees;

"(B) the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) the Foreign Intelligence Surveillance Court.

"(g) Certification.—

"(1) In General.—

"(A) Requirement to Submit Certification.—Subject to subparagraph (B), prior to the implementation of an authorization under subsection (a), the Attorney General and the Director of National Intelligence shall provide to the Foreign Intelligence Surveillance Court a written certification and any supporting affidavit, under oath and under seal, in accordance with this subsection.

"(B) Exception.—If the Attorney General and the Director of National Intelligence make a determination under subsection (c)(2) and time does not permit the submission of a
certification under this subsection prior to the
implementation of an authorization under sub-
section (a), the Attorney General and the Direc-
tor of National Intelligence shall submit to the
Court a certification for such authorization as
soon as practicable but in no event later than
7 days after such determination is made.

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

"(A) attest that—

"(i) procedures have been approved,

have been submitted for approval, or will
be submitted with the certification for ap-
proval by the Foreign Intelligence Surveil-
lance Court that are reasonably designed
to ensure compliance with the require-
ments and limitations under subsections
(a) and (b).

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

"(I) meet the requirements of
civil liberties and privacy protection
procedures adopted under subsection
(c); and
“(II) have been approved, have been submitted for approval, or will be submitted with the certification for approval by the Foreign Intelligence Surveillance Court;

“(iii) guidelines have been adopted in accordance with subsection (f) to ensure compliance with the limitations in subsection (b) and to ensure that an application for a court order is filed as required by this chapter;

“(iv) the procedures and guidelines referred to in clauses (i), (ii), and (iii) are consistent with the requirements of the fourth amendment to the Constitution of the United States;

“(v) a significant purpose of the acquisition is to obtain foreign intelligence information; (vi) the acquisition involves obtaining foreign intelligence information from or with the assistance of an electronic communications service provider; and

“(vi) the acquisition complies with the limitations in subsection (b);
“(B) include the procedures adopted in accordance with subsections (d) and (e);

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

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

“(ii) the head of an element of the intelligence community;

“(D) include—

“(i) an effective date for the authorization that is at least 30 days after the submission of the written certification to the court; or

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

“(E) if the Attorney General and the Director of National Intelligence make a determination under subsection (e)(2), include a
statement that such determination has been made.

"(3) CHANGE IN EFFECTIVE DATE.—The Attorney General and the Director of National Intelligence may advance or delay the effective date referred to in paragraph (2)(D) by submitting an amended certification in accordance with subsection (i)(1)(C) to the Foreign Intelligence Surveillance Court for review pursuant to subsection (i).

"(4) MAINTENANCE OF CERTIFICATION.—The Attorney General or a designee of the Attorney General shall maintain a copy of a certification made under this subsection.

"(5) JUDICIAL REVIEW.—A certification submitted in accordance with this subsection shall be subject to judicial review pursuant to subsection (i).

"(h) DIRECTIVES.—

"(1) AUTHORITY.—With respect to an acquisition authorized under subsection (a), the Attorney General and the Director of National Intelligence may direct, in writing, an electronic communications service provider to—

"(A) immediately provide the Government with records, whether existing or created in the future, in the format specified by the Govern-
ment and in a manner that will protect the secrecy of the acquisition; and

"(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the aid furnished that such electronic communication service provider retains.

"(2) COMPENSATION AND ASSISTANCE.—The Government shall compensate, at the prevailing rate, an electronic communications service provider for providing records in accordance with directives issued pursuant to paragraph (1). The Government may provide any information, facilities, or assistance necessary to aid an electronic communications service provider in complying with a directive issued pursuant to paragraph (1).

"(3) RECORD REQUIREMENT.—For any directive issued under paragraph (1), the Attorney General shall retain a record of the information indicating that, at the time the directive was issued, the directive complied with the selection procedures established by subsection (d).

"(4) JUDICIAL REVIEW.—

"(A) REQUIREMENT TO PROVIDE DIRECTIVES AND SUPPORTING RECORDS.—The Attor-
ney General shall promptly provide to the court established by section 103(a) a copy of each directive issued under paragraph (1) and a copy of each record prepared under paragraph (3).

"(B) REMEDY FOR IMPROPER DIRECTIVES.—The court shall promptly consider each directive and record provided under subparagraph (A), and if the court finds that a record prepared under paragraph (3) does not meet the requirements of the selection procedures established by subsection (d), the court may order that the production of records under the applicable directive be terminated or modified, that the information produced in response to the directive be destroyed, or another appropriate remedy.

"(5) CHALLENGING OF DIRECTIVES.—

"(A) AUTHORITY TO CHALLENGE.—An electronic communications service provider receiving a directive issued pursuant to paragraph (1) may file a petition to modify or set aside such directive with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such petition.
"(B) ASSIGNMENT.—The presiding judge of the Court shall assign a petition filed under subparagraph (A) to 1 of the judges serving in the pool established under section 103(e)(1) not later than 24 hours after the filing of such petition.

"(C) STANDARDS FOR REVIEW.—A judge considering a petition filed under subparagraph (A) may grant such petition only if the judge finds that the directive does not meet the requirements of this section or is otherwise unlawful.

"(D) PROCEDURES FOR INITIAL REVIEW.—A judge shall conduct an initial review of a petition filed under subparagraph (A) not later than 5 days after being assigned such petition. If the judge determines that such petition consists of claims, defenses, or other legal contentions that are not warranted by existing law or consists of a frivolous argument for extending, modifying, or reversing existing law or for establishing new law, the judge shall immediately deny such petition and affirm the directive or any part of the directive that is the subject of such petition and order the recipient to
comply with the directive or any part of it.
Upon making a determination under this sub-
paragraph or promptly thereafter, the judge
shall provide a written statement for the record
of the reasons for such determination.

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

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

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

“(A) ORDER TO COMPEL.—If an electronic communications service provider fails to comply with a directive issued pursuant to paragraph (1), the Attorney General may file a petition for an order to compel the service to comply with the directive with the Foreign Intelligence Surveillance Court, which shall have jurisdiction to review such petition.

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

“(C) PROCEDURES FOR REVIEW.—A judge considering a petition filed under subparagraph (A) shall, not later than 30 days after being assigned such petition, issue an order requiring the electronic communications service provider to comply with the directive or any part of it, as issued or as modified, if the judge finds that the directive meets the requirements of this section and is otherwise lawful. The judge shall provide a written statement for the record of
the reasons for a determination under this paragraph.

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

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

"(7) APPEAL.—

"(A) APPEAL TO THE COURT OF REVIEW.—The Government or an electronic communications service provider receiving a directive issued pursuant to paragraph (1) may file a petition with the Foreign Intelligence Surveillance Court of Review for review of a decision issued pursuant to paragraph (4) or (5). The Court of Review shall have jurisdiction to consider such petition and shall provide a written statement for the record of the reasons for a decision under this subparagraph.

"(B) CERTIORARI TO THE SUPREME COURT.—The Government or an electronic communications service provider receiving a directive issued pursuant to paragraph (1) may file
a petition for a writ of certiorari for review of
a decision of the Court of Review issued under
subparagraph (A). The record for such review
shall be transmitted under seal to the Supreme
Court of the United States, which shall have ju-
risdiction to review such decision.

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

"(i) JUDICIAL REVIEW OF CERTIFICATIONS AND
PROCEDURES.—

"(1) IN GENERAL.—

"(A) REVIEW BY THE FOREIGN INTEL-
LIGENCE SURVEILLANCE COURT.—The Foreign
Intelligence Surveillance Court shall have juris-
diction to review a certification submitted in ac-
cordance with subsection (g) and the selection
and civil liberties and privacy protection proce-
dures adopted in accordance with subsections
(d) and (e), and amendments to such certifi-
cation or such procedures.
“(B) TIME PERIOD FOR REVIEW.—The Court shall review a certification submitted in accordance with subsection (g) and the selection and civil liberties and privacy protection procedures adopted in accordance with subsections (d) and (e) and shall complete such review and issue an order under paragraph (3) not later than 30 days after the date on which such certification and such procedures are submitted.

“(C) AMENDMENTS.—The Attorney General and the Director of National Intelligence may amend a certification submitted in accordance with subsection (g) or the selection and civil liberties and privacy protection procedures adopted in accordance with subsections (d) and (e) as necessary at any time, including if the Court is conducting or has completed review of such certification or such procedures, and shall submit the amended certification or amended procedures to the Court not later than 7 days after amending such certification or such procedures. The Court shall review any amendment under this subparagraph under the procedures set forth in this subsection. The Attorney General and the Director of National Intelligence
may authorize the use of an amended certification or amended procedures pending the Court’s review of such amended certification or amended procedures.

“(2) REVIEW.—The Court shall review the following:

“(A) CERTIFICATION.—A certification submitted in accordance with subsection (g) to determine whether the certification contains all the required elements.

“(B) SELECTION PROCEDURES.—The selection procedures adopted in accordance with subsection (d) to assess whether the procedures are reasonably designed to meet the requirements of subsection (d).

“(C) CIVIL LIBERTIES AND PRIVACY PROTECTION PROCEDURES.—The civil liberties and privacy protection procedures adopted in accordance with subsection (e) to assess whether such procedures meet the requirements of subsection (e).

“(3) ORDERS.—

“(A) APPROVAL.—If the Court finds that a certification submitted in accordance with subsection (g) contains all the required ele-
ments and that the selection and civil liberties and privacy protection procedures adopted in accordance with subsections (d) and (e) are consistent with the requirements of those subsections and with the fourth amendment to the Constitution of the United States, the Court shall enter an order approving the certification and the use, or continued use in the case of an acquisition authorized pursuant to a determination under subsection (c)(2), of the procedures for the acquisition.

"(B) CORRECTION OF DEFICIENCIES.—If the Court finds that a certification submitted in accordance with subsection (g) does not contain all the required elements, or that the procedures adopted in accordance with subsections (d) and (e) are not consistent with the requirements of those subsections or the fourth amendment to the Constitution of the United States, the Court shall issue an order directing the Government to, at the Government’s election and to the extent required by the Court’s order—

“(i) correct any deficiency identified by the Court’s order not later than 30 days
after the date on which the Court issues
the order; or

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

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

[("(4) APPEAL.—]"

[("(A) APPEAL TO THE COURT OF RE-
VIEW.—The Government may file a petition
with the Foreign Intelligence Surveillance Court
of Review for review of an order under this sub-
section. The Court of Review shall have juris-
diction to consider such petition. For any deci-
sion under this subparagraph affirming, revers-
ing, or modifying an order of the Foreign Inte-
lligence Surveillance Court, the Court of Review
shall provide for the record a written statement
of the reasons for the decision.]

[("(B) CONTINUATION OF ACQUISITION
PENDING REHEARING OR APPEAL.—Any acqui-
sition affected by an order under paragraph
(3)(B) may continue—]

[("(i) during the pendency of any re-
hearing of the order by the Court en bane;
and]

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

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

[("(D) CERTIORARI TO THE SUPREME
COURT.—The Government may file a petition
for a writ of certiorari for review of a decision
of the Court of Review issued under subpara-
graph (A). The record for such review shall be
transmitted under seal to the Supreme Court of
the United States, which shall have jurisdiction
to review such decision."

"(5) SCHEDULE.—

"(A) REAUTHORIZATION OF AUTHORIZATIONS IN EFFECT.—If the Attorney General
and the Director of National Intelligence seek
to reauthorize or replace an authorization
issued under subsection (a), the Attorney Gen-
eral and the Director of National Intelligence
shall, to the extent practicable, submit to the
Court the certification prepared in accordance
with subsection (g) and the procedures adopted
in accordance with subsections (d) and (e) at
least 30 days prior to the expiration of such au-
thorization.

"(B) REAUTHORIZATION OF ORDERS, AU-
THORIZATIONS, AND DIRECTIVES.—If the At-
torney General and the Director of National In-
telligence seek to reauthorize or replace an au-
thorization issued under subsection (a) by filing
a certification pursuant to subparagraph (A),
that authorization, and any directives issued
thereunder and any order related thereto, shall
remain in effect, notwithstanding the expiration
provided for in subsection (a), until the Court
issues an order with respect to such certification under paragraph (3) at which time the provisions of that paragraph and paragraph (4) shall apply with respect to such certification.

"(j) JUDICIAL PROCEEDINGS.—

"(1) EXPEDITED JUDICIAL PROCEEDINGS.—Judicial proceedings under this section shall be conducted as expeditiously as possible.

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

"(k) MAINTENANCE AND SECURITY OF RECORDS AND PROCEEDINGS.—

"(1) STANDARDS.—The Foreign Intelligence Surveillance Court shall maintain a record of a proceeding under this section, including petitions, appeals, orders, and statements of reasons for a decision, under security measures adopted by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.
“(2) FILING AND REVIEW.—All petitions under this section shall be filed under seal. In any proceedings under this section, the Court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

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

“(1) ASSESSMENTS AND REVIEWS.—

“(1) SEMIANNUAL ASSESSMENT.—Not less frequently than once every 6 months, the Attorney General and Director of National Intelligence shall assess compliance with the selection and civil liberties and privacy protection procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f). The assessment shall also include the aggregate number of directives issued under subsection (h) during the relevant time period. The Attorney Gen-
eral and Director of National Intelligence shall submit each assessment to—

“(A) the Foreign Intelligence Surveillance Court; and

“(B) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

“(i) the congressional intelligence committees; and

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

“(2) AGENCY ASSESSMENT.—The Inspector General of the Department of Justice and the Inspector General of each element of the intelligence community authorized to acquire communications records under subsection (a), with respect to the department or element of such Inspector General—

“(A) are authorized to review compliance with the selection and civil liberties and privacy protection procedures adopted in accordance with subsections (d) and (e) and the guidelines adopted in accordance with subsection (f);
“(B shall provide each such review to—

“(i) the Attorney General;

“(ii) the Director of National Intelligence; and

“(iii) consistent with the Rules of the House of Representatives, the Standing Rules of the Senate, and Senate Resolution 400 of the 94th Congress or any successor Senate resolution—

“(I) the congressional intelligence committees; and

“(II) the Committees on the Judiciary of the House of Representatives and the Senate.

“(m) DEFINITIONS.—In this section:

“(1) The terms ‘contents’, ‘wire communication’, and ‘electronic communication’ have the meaning given such terms in section 2510 of title 18, United States Code.

“(2) The term ‘electronic communication service provider’ has the meaning given such term in section 701.

“(3) The terms ‘foreign power’ and ‘agent of a foreign power’ have the meanings given such terms in section 101.”.
(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 note) is amended by inserting after the item relating to section 502 the following new item:

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

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