

DECEMBER 19, 2017

RULES COMMITTEE PRINT 115–51
TEXT OF H.R. 4478, FISA AMENDMENTS
REAUTHORIZATION ACT OF 2017

**[Showing the text of H.R. 4478, as ordered reported by the
Permanent Committee on Intelligence]**

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “FISA Amendments Reauthorization Act of 2017”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

**TITLE I—ENHANCEMENTS TO FOREIGN INTELLIGENCE
COLLECTION**

Sec. 101. Section 705 emergency provision.

Sec. 102. Modification to definitions of foreign power and agent of a foreign
power.

TITLE II—SAFEGUARDS, ACCOUNTABILITY, AND OVERSIGHT

Sec. 201. Querying procedures required.

Sec. 202. Use and disclosure provisions.

Sec. 203. Congressional review and oversight of abouts collection.

Sec. 204. Publication of minimization procedures under section 702.

Sec. 205. Compensation of amici curiae and technical experts.

Sec. 206. Additional reporting requirements.

Sec. 207. Procedures regarding dissemination of nonpublicly available informa-
tion concerning United States persons.

Sec. 208. Improvements to Privacy and Civil Liberties Oversight Board.

Sec. 209. Privacy and civil liberties officers.

Sec. 210. Whistleblower protections for contractors of the intelligence commu-
nity.

Sec. 211. Briefing on notification requirements.

**TITLE III—EXTENSION OF AUTHORITIES, INCREASED
PENALTIES, REPORTS, AND OTHER MATTERS**

- Sec. 301. Extension of title VII of FISA; effective dates.
- Sec. 302. Increased penalty for unauthorized removal and retention of classified documents or material.
- Sec. 303. Report on challenges to the effectiveness of foreign intelligence surveillance.
- Sec. 304. Comptroller General study on the classification system and protection of classified information.
- Sec. 305. Technical amendments and amendments to improve procedures of the Foreign Intelligence Surveillance Court of Review.
- Sec. 306. Severability.

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

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to
7 a section or other provision of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

9 **TITLE I—ENHANCEMENTS TO**
10 **FOREIGN INTELLIGENCE**
11 **COLLECTION**

12 **SEC. 101. SECTION 705 EMERGENCY PROVISION.**

13 Section 705 (50 U.S.C. 1881d) is amended by adding
14 at the end the following:

15 “(c) EMERGENCY AUTHORIZATION.—

16 “(1) CONCURRENT AUTHORIZATION.—If the
17 Attorney General authorized the emergency employ-
18 ment of electronic surveillance or a physical search
19 pursuant to section 105 or 304, the Attorney Gen-
20 eral may authorize, for the effective period of the

1 emergency authorization and subsequent order pur-
2 suant to section 105 or 304, without a separate
3 order under section 703 or 704, the targeting of a
4 United States person subject to such emergency em-
5 ployment for the purpose of acquiring foreign intel-
6 ligence information while such United States person
7 is reasonably believed to be located outside the
8 United States.

9 “(2) USE OF INFORMATION.—If an application
10 submitted to the Court pursuant to section 104 or
11 304 is denied, or in any other case in which the ac-
12 quisition pursuant to paragraph (1) is terminated
13 and no order with respect to the target of the acqui-
14 sition is issued under section 105 or 304, all infor-
15 mation obtained or evidence derived from such ac-
16 quisition shall be handled in accordance with section
17 704(d)(4).”.

18 **SEC. 102. MODIFICATION TO DEFINITIONS OF FOREIGN**
19 **POWER AND AGENT OF A FOREIGN POWER.**

20 (a) FOREIGN POWER.—Subsection (a) of section 101
21 (50 U.S.C. 1801) is amended—

22 (1) in paragraph (6), by striking “; or” and in-
23 serting a semicolon;

24 (2) in paragraph (7), by striking the period at
25 the end and inserting “; or”; and

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

3 “(8) an entity not substantially composed
4 of United States persons that is engaged in
5 international malicious cyber activity, or activi-
6 ties in preparation therefor, that threatens the
7 national defense or security of the United
8 States.”.

9 (b) AGENT OF A FOREIGN POWER.—Subsection
10 (b)(1) of such section (50 U.S.C. 1801) is amended—

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

13 (2) by adding at the end the following new sub-
14 paragraph:

15 “(F) engages in international malicious
16 cyber activity that threatens the national de-
17 fense or security of the United States, or activi-
18 ties in preparation therefor, for or on behalf of
19 a foreign power, or knowingly aids or abets any
20 person in the conduct of such international ma-
21 licious cyber activity or activities in preparation
22 therefor, or knowingly conspires with any per-
23 son to engage in such international malicious
24 cyber activity or activities in preparation there-
25 for; or”.

1 (c) INTERNATIONAL MALICIOUS CYBER ACTIVITY
2 DEFINED.—Such section (50 U.S.C. 1801) is further
3 amended by adding at the end the following new sub-
4 section:

5 “(q)(1) The term ‘international malicious cyber
6 activity’ means activity on or through an informa-
7 tion system—

8 “(A) originating from, or directed by, per-
9 sons located, in whole or in substantial part,
10 outside the United States;

11 “(B) that seeks to compromise or impair
12 the confidentiality, integrity, or availability of
13 computers, information systems or communica-
14 tions systems, networks, physical or virtual in-
15 frastructure controlled by computers or infor-
16 mation systems, or information resident there-
17 on; and

18 “(C) that is not authorized by the United
19 States Government or otherwise carried out in
20 accordance with Federal law.

21 “(2) In paragraph (1), the term ‘information
22 system’ has the meaning given that term in section
23 102 of the Cybersecurity Information Sharing Act of
24 2015 (6 U.S.C. 1501), and includes national secu-

1 rity systems (as defined in section 11103 of title 40,
2 United States Code).”.

3 **TITLE II—SAFEGUARDS, AC-**
4 **COUNTABILITY, AND OVER-**
5 **SIGHT**

6 **SEC. 201. QUERYING PROCEDURES REQUIRED.**

7 (a) QUERYING PROCEDURES.—

8 (1) IN GENERAL.—Section 702 (50 U.S.C.
9 1881a) is amended—

10 (A) by redesignating subsections (f)
11 through (l) as subsections (g) through (m), re-
12 spectively; and

13 (B) by inserting after subsection (e) the
14 following new subsection:

15 “(f) QUERIES.—

16 “(1) PROCEDURES REQUIRED.—

17 “(A) REQUIREMENT TO ADOPT.—The At-
18 torney General, in consultation with the Direc-
19 tor of National Intelligence, shall adopt
20 querying procedures consistent with the require-
21 ments of the fourth amendment to the Con-
22 stitution of the United States for information
23 collected pursuant to an authorization under
24 subsection (a).

1 “(B) RECORD OF UNITED STATES PERSON
2 QUERY TERMS.—The Attorney General, in con-
3 sultation with the Director of National Intel-
4 ligence, shall ensure that the procedures adopt-
5 ed under subparagraph (A) include a technical
6 procedure whereby a record is kept of each
7 United States person query term used for a
8 query.

9 “(C) JUDICIAL REVIEW.—The procedures
10 adopted in accordance with subparagraph (A)
11 shall be subject to judicial review pursuant to
12 subsection (j).

13 “(2) COURT ORDERS FOR ACCESS OF CONTENTS
14 FROM CERTAIN QUERIES.—

15 “(A) DISCRETION FOR FBI TO APPLY FOR
16 COURT ORDER.—Before the Federal Bureau of
17 Investigation accesses the contents of commu-
18 nications acquired under subsection (a) that
19 were retrieved using a United States person
20 query term that was not designed to find and
21 extract foreign intelligence information, the Bu-
22 reau may apply for an order of the Court under
23 subparagraph (C).

24 “(B) JURISDICTION.—The Court shall
25 have jurisdiction to review an application and to

1 enter an order approving the access described
2 in subparagraph (A).

3 “(C) APPLICATION.—Each application for
4 an order under this paragraph shall be made by
5 a Federal officer in writing upon oath or affir-
6 mation to a judge having jurisdiction under
7 subparagraph (B). Each application shall re-
8 quire the approval of the Attorney General
9 based upon the finding of the Attorney General
10 that the application satisfies the criteria and re-
11 quirements of such application, as set forth in
12 this paragraph, and shall include—

13 “(i) the identity of the Federal officer
14 making the application; and

15 “(ii) an affidavit or other information
16 containing a statement of the facts and
17 circumstances relied upon by the applicant
18 to justify the belief of the applicant that
19 the contents of communications described
20 in subparagraph (A) covered by the appli-
21 cation would provide evidence of—

22 “(I) criminal activity;

23 “(II) contraband, fruits of a
24 crime, or other items illegally pos-
25 sessed by a third party; or

1 “(III) property designed for use,
2 intended for use, or used in commit-
3 ting a crime.

4 “(D) ORDER.—Upon an application made
5 pursuant to subparagraph (C), the Court shall
6 enter an order approving the access of the con-
7 tents of communications described in subpara-
8 graph (A) covered by the application if the
9 Court finds probable cause to believe that such
10 contents would provide any of the evidence de-
11 scribed in subparagraph (C)(ii).

12 “(E) RULE OF CONSTRUCTION.—Nothing
13 in this paragraph may be construed to prohibit
14 the Federal Bureau of Investigation from
15 querying information acquired under subsection
16 (a), or accessing the results of such a query, re-
17 gardless of whether the Bureau applies for or
18 receives an order under this paragraph.

19 “(3) QUERY DEFINED.—In this subsection, the
20 term ‘query’ means the use of one or more terms to
21 retrieve the unminimized contents (as defined in sec-
22 tion 2510(8) of title 18, United States Code) or non-
23 contents located in electronic and data storage sys-
24 tems of communications of or concerning United

1 States persons obtained through acquisitions author-
2 ized under subsection (a).”.

3 (2) APPLICATION.—Subsection (f) of section
4 702 of the Foreign Intelligence Surveillance Act of
5 1978 (50 U.S.C. 1881a), as added by paragraph (1),
6 shall apply with respect to certifications submitted
7 under subsection (h) of such section to the Foreign
8 Intelligence Surveillance Court after January 1,
9 2018.

10 (b) CONFORMING AMENDMENTS.—

11 (1) AMENDMENTS TO SECTION 702 OF FISA.—

12 Such section 702 is further amended—

13 (A) in subsection (a), by striking “with
14 subsection (i)(3)” and inserting “with sub-
15 section (j)(3)”;

16 (B) in subsection (c)—

17 (i) in paragraph (1)(B), by striking
18 “with subsection (g)” and inserting “with
19 subsection (h)”;

20 (ii) in paragraph (2), by striking “to
21 subsection (i)(3)” and inserting “to sub-
22 section (j)(3)”;

23 (iii) in paragraph (3)—

- 1 (I) in subparagraph (A), by strik-
2 ing “with subsection (g)” and insert-
3 ing “with subsection (h)”;
- 4 (II) in subparagraph (B)—
5 (aa) by striking “to sub-
6 section (i)(1)(C)” and inserting
7 “to subsection (j)(1)(C)”;
- 8 (bb) by striking “under sub-
9 section (i)” and inserting “under
10 subsection (j)”;
- 11 (C) in subsection (d)(2), by striking “to
12 subsection (i)” and inserting “to subsection
13 (j)”;
- 14 (D) in subsection (e)(2), by striking “to
15 subsection (i)” and inserting “to subsection
16 (j)”;
- 17 (E) in subsection (h), as redesignated by
18 subsection (a)(1)—
19 (i) in paragraph (2)(A)(iii), by strik-
20 ing “with subsection (f)” and inserting
21 “with subsection (g)”;
- 22 (ii) in paragraph (3), by striking
23 “with subsection (i)(1)(C)” and inserting
24 “with subsection (j)(1)(C)”;

1 (iii) in paragraph (6), by striking “to
2 subsection (i)” and inserting “to sub-
3 section (j)”;

4 (F) in subsection (j), as redesignated by
5 subsection (a)(1)—

6 (i) in paragraph (1)—

7 (I) in subparagraph (A), by strik-
8 ing “targeting and minimization pro-
9 cedures adopted in accordance with
10 subsections (d) and (e)” and inserting
11 “targeting, minimization, and
12 querying procedures adopted in ac-
13 cordance with subsections (d), (e),
14 and (f)(1)”;

15 (II) in subparagraph (B), by
16 striking “targeting and minimization
17 procedures adopted in accordance with
18 subsections (d) and (e)” and inserting
19 “targeting, minimization, and
20 querying procedures adopted in ac-
21 cordance with subsections (d), (e),
22 and (f)(1)”;

23 (III) in subparagraph (C), by
24 striking “targeting and minimization
25 procedures adopted in accordance with

1 subsections (d) and (e)” and inserting
2 “targeting, minimization, and
3 querying procedures adopted in ac-
4 cordance with subsections (d), (e),
5 and (f)(1)”;

6 (ii) in paragraph (2)—

7 (I) in subparagraph (A), by strik-
8 ing “with subsection (g)” and insert-
9 ing “with subsection (h)”;

10 (II) by adding at the end the fol-
11 lowing:

12 “(D) QUERYING PROCEDURES.—The
13 querying procedures adopted in accordance with
14 subsection (f)(1) to assess whether such proce-
15 dures comply with the requirements of such
16 subsection.”;

17 (iii) in paragraph (3)—

18 (I) in subparagraph (A)—

19 (aa) by striking “with sub-
20 section (g)” and inserting “with
21 subsection (h)”;

22 (bb) by striking “targeting
23 and minimization procedures
24 adopted in accordance with sub-
25 sections (d) and (e)” and insert-

1 ing “targeting, minimization, and
2 querying procedures adopted in
3 accordance with subsections (d),
4 (e), and (f)(1)”; and
5 (II) in subparagraph (B), in the
6 matter before clause (i)—
7 (aa) by striking “with sub-
8 section (g)” and inserting “with
9 subsection (h)”; and
10 (bb) by striking “with sub-
11 sections (d) and (e)” and insert-
12 ing “with subsections (d), (e),
13 and (f)(1)”; and
14 (iv) in paragraph (5)(A)—
15 (I) by striking “with subsection
16 (g)” and inserting “with subsection
17 (h)”; and
18 (II) by striking “with subsections
19 (d) and (e)” and inserting “with sub-
20 sections (d), (e), and (f)(1)”; and
21 (G) in subsection (m), as redesignated by
22 subsection (a)(1)—
23 (i) in paragraph (1), in the matter be-
24 fore subparagraph (A)—

1 (I) by striking “targeting and
2 minimization procedures adopted in
3 accordance with subsections (d) and
4 (e)” and inserting “targeting, mini-
5 mization, and querying procedures
6 adopted in accordance with sub-
7 sections (d), (e), and (f)(1)”; and

8 (II) by striking “with subsection
9 (f)” and inserting “with subsection
10 (g)”; and

11 (ii) in paragraph (2)(A)—

12 (I) by striking “targeting and
13 minimization procedures adopted in
14 accordance with subsections (d) and
15 (e)” and inserting “targeting, mini-
16 mization, and querying procedures
17 adopted in accordance with sub-
18 sections (d), (e), and (f)(1)”; and

19 (II) by striking “with subsection
20 (f)” and inserting “with subsection
21 (g)”.

22 (2) AMENDMENTS TO FISA.—The Foreign In-
23 telligence Surveillance Act of 1978 (50 U.S.C. 1801
24 et seq.) is further amended—

1 (A) by striking “section 702(h)” each
2 place it appears and inserting “section 702(i)”;

3 (B) by striking “section 702(g)” each
4 place it appears and inserting “section 702(h)”;

5 and

6 (C) in section 707(b)(1)(G)(ii), by striking
7 “subsections (d), (e), and (f)” and inserting
8 “subsections (d), (e), (f)(1), and (g)”.

9 (3) AMENDMENTS TO FISA AMENDMENTS ACT
10 OF 2008.—Section 404 of the Foreign Intelligence
11 Surveillance Act of 1978 Amendments Act of 2008
12 (Public Law 110–261; 50 U.S.C. 1801 note) is
13 amended—

14 (A) in subsection (a)(7)(B)—

15 (i) by striking “under section
16 702(i)(3)” and inserting “under section
17 702(j)(3)”;

18 (ii) by striking “of section 702(i)(4)”
19 and inserting “of section 702(j)(4)”;

20 (B) in subsection (b)—

21 (i) in paragraph (3)—

22 (I) in subparagraph (A), by strik-
23 ing “to section 702(h)” and inserting
24 “to section 702(i)”;

25 (II) in subparagraph (B)—

1 (aa) by striking “section
2 702(h)(3) of” and inserting “sec-
3 tion 702(i)(3) of”; and

4 (bb) by striking “to section
5 702(h)” and inserting “to section
6 702(i)”; and

7 (ii) in paragraph (4)—

8 (I) in subparagraph (A), by strik-
9 ing “and sections 702(l)” and insert-
10 ing “and sections 702(m)”; and

11 (II) in subparagraph (B)(iv), by
12 striking “or section 702(l)” and in-
13 serting “or section 702(m)”.

14 **SEC. 202. USE AND DISCLOSURE PROVISIONS.**

15 (a) **END USE RESTRICTION.**—Section 706(a) (50
16 U.S.C. 1881e(a)) is amended—

17 (1) by striking “Information acquired” and in-
18 serting the following:

19 “(1) **IN GENERAL.**—Information acquired”; and

20 (2) by adding at the end the following:

21 “(2) **UNITED STATES PERSONS.**—

22 “(A) **IN GENERAL.**—Any information con-
23 cerning a United States person acquired under
24 section 702 shall not be used in evidence
25 against that United States person pursuant to

1 paragraph (1) in any criminal proceeding un-
2 less—

3 “(i) the Federal Bureau of Investiga-
4 tion obtained an order of the Foreign In-
5 telligence Surveillance Court to access such
6 information pursuant to section 702(f)(2);
7 or

8 “(ii) the Attorney General determines
9 that—

10 “(I) the criminal proceeding af-
11 fects, involves, or is related to the na-
12 tional security of the United States;
13 or

14 “(II) the criminal proceeding in-
15 volves—

16 “(aa) death;

17 “(bb) kidnapping;

18 “(cc) serious bodily injury,
19 as defined in section 1365 of title
20 18, United States Code;

21 “(dd) conduct that con-
22 stitutes a criminal offense that is
23 a specified offense against a
24 minor, as defined in section 111
25 of the Adam Walsh Child Protec-

1 tion and Safety Act of 2006 (34
2 U.S.C. 20911);

3 “(ee) incapacitation or de-
4 struction of critical infrastruc-
5 ture, as defined in section
6 1016(e) of the USA PATRIOT
7 Act (42 U.S.C. 5195c(e));

8 “(ff) cybersecurity, including
9 conduct described in section
10 1016(e) of the USA PATRIOT
11 Act (42 U.S.C. 5195c(e)) or sec-
12 tion 1029, 1030, or 2511 of title
13 18, United States Code;

14 “(gg) transnational crime,
15 including transnational narcotics
16 trafficking and transnational or-
17 ganized crime; or

18 “(hh) human trafficking.

19 “(B) NO JUDICIAL REVIEW.—A determina-
20 tion by the Attorney General under subpara-
21 graph (A)(ii) is not subject to judicial review.”.

22 (b) INTELLIGENCE COMMUNITY DISCLOSURE PROVI-
23 SION.—Section 603 (50 U.S.C. 1873) is amended—

24 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “good
2 faith estimate of the number of targets of such
3 orders;” and inserting the following: “good faith
4 estimate of—

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

6 “(B) the number of targets of such orders
7 who are known to not be United States persons;
8 and

9 “(C) the number of targets of such orders
10 who are known to be United States persons;”;

11 (B) in paragraph (2)—

12 (i) by redesignating subparagraphs
13 (A) and (B) as subparagraphs (B) and
14 (C), respectively;

15 (ii) by inserting before subparagraph
16 (B), as so redesignated, the following:

17 “(A) the number of targets of such or-
18 ders;”;

19 (iii) in subparagraph (B), as so redesi-
20 gnated, by striking “and” at the end; and

21 (iv) by adding at the end the fol-
22 lowing:

23 “(D) the number of instances in which the
24 Federal Bureau of Investigation has received
25 and reviewed the unminimized contents of elec-

1 tronic communications or wire communications
2 concerning a United States person obtained
3 through acquisitions authorized under such sec-
4 tion in response to a search term that was not
5 designed to find and extract foreign intelligence
6 information; and

7 “(E) the number of instances in which the
8 Federal Bureau of Investigation opened, under
9 the Criminal Investigative Division or any suc-
10 cessor division, an investigation of a United
11 States person (who is not considered a threat to
12 national security) based wholly or in part on an
13 acquisition authorized under such section;”;

14 (C) in paragraph (3)(A), by striking “or-
15 ders; and” and inserting the following: “orders,
16 including—

17 “(i) the number of targets of such or-
18 ders who are known to not be United
19 States persons; and

20 “(ii) the number of targets of such or-
21 ders who are known to be United States
22 persons; and”;

23 (D) by redesignating paragraphs (4), (5),
24 and (6) as paragraphs (5), (6), and (7), respec-
25 tively; and

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

3 “(4) the number of criminal proceedings in
4 which the United States or a State or political sub-
5 division thereof provided notice pursuant to sub-
6 section (c) or (d) of section 106 (including with re-
7 spect to information acquired from an acquisition
8 conducted under section 702) or subsection (d) or
9 (e) of section 305 of the intent of the government
10 to enter into evidence or otherwise use or disclose
11 any information obtained or derived from electronic
12 surveillance, physical search, or an acquisition con-
13 ducted pursuant to this Act;” and

14 (2) in subsection (d)—

15 (A) in paragraph (1), by striking “(4), or
16 (5)” and inserting “(5), or (6)”;

17 (B) in paragraph (2)(A), by striking
18 “(2)(A), (2)(B), and (5)(C)” and inserting
19 “(2)(B), (2)(C), and (6)(C)”;

20 (C) in paragraph (3)(A), in the matter
21 preceding clause (i), by striking “subsection
22 (b)(2)(B)” and inserting “subsection
23 (b)(2)(C)”.

1 **SEC. 203. CONGRESSIONAL REVIEW AND OVERSIGHT OF**
2 **ABOUTS COLLECTION.**

3 (a) IN GENERAL.—Section 702(b) (50 U.S.C.
4 1881a(b)) is amended—

5 (1) in paragraph (4), by striking “and” at the
6 end;

7 (2) by redesignating paragraph (5) as para-
8 graph (6); and

9 (3) by inserting after paragraph (4) the fol-
10 lowing:

11 “(5) may not intentionally acquire communica-
12 tions that contain a reference to, but are not to or
13 from, a facility, place, premises, or property at
14 which an acquisition authorized under subsection (a)
15 is directed or conducted, except as provided under
16 section 203(b) of the FISA Amendments Reauthor-
17 ization Act of 2017; and”.

18 (b) CONGRESSIONAL REVIEW AND OVERSIGHT OF
19 ABOUTS COLLECTION.—

20 (1) DEFINITIONS.—In this subsection:

21 (A) The term “abouts communication”
22 means a communication that contains reference
23 to, but is not to or from, a facility, a place,
24 premises, or property at which an acquisition
25 authorized under section 702(a) of the Foreign

1 Intelligence Surveillance Act of 1978 (50
2 U.S.C. 1881a(a)) is directed or conducted.

3 (B) The term “material breach” means
4 significant noncompliance with applicable law or
5 an order of the Foreign Intelligence Surveil-
6 lance Court concerning any acquisition of
7 abouts communications.

8 (2) SUBMISSION TO CONGRESS.—

9 (A) REQUIREMENT.—Notwithstanding any
10 other provision of law, and except as provided
11 in paragraph (4), if the Attorney General and
12 the Director of National Intelligence intend to
13 implement the authorization of the intentional
14 acquisition of abouts communications, before
15 the first such implementation after the date of
16 enactment of this Act, the Attorney General
17 and the Director of National Intelligence shall
18 submit to the Committee on the Judiciary and
19 the Select Committee on Intelligence of the
20 Senate and the Committee on the Judiciary and
21 the Permanent Select Committee on Intelligence
22 of the House of Representatives a written no-
23 tice of the intent to implement the authoriza-
24 tion of such an acquisition, and any supporting
25 materials in accordance with this subsection.

1 (B) CONGRESSIONAL REVIEW PERIOD.—
2 During the 30-day period beginning on the date
3 written notice is submitted under subparagraph
4 (A), the Committee on the Judiciary and the
5 Select Committee on Intelligence of the Senate
6 and the Committee on the Judiciary and the
7 Permanent Select Committee on Intelligence of
8 the House of Representatives shall, as appro-
9 priate, hold hearings and briefings and other-
10 wise obtain information in order to fully review
11 the written notice.

12 (C) LIMITATION ON ACTION DURING CON-
13 GRESSIONAL REVIEW PERIOD.—Notwith-
14 standing any other provision of law, and subject
15 to paragraph (4), unless the Attorney General
16 and the Director of National Intelligence make
17 a determination pursuant to section 702(e)(2)
18 of the Foreign Intelligence Surveillance Act of
19 1978 (50 U.S.C. 1881a(e)(2)), the Attorney
20 General and the Director of National Intel-
21 ligence may not implement the authorization of
22 the intentional acquisition of abouts commu-
23 nications before the end of the period described
24 in subparagraph (B).

1 (3) WRITTEN NOTICE.—Written notice under
2 paragraph (2)(A) shall include the following:

3 (A) A copy of any certification submitted
4 to the Foreign Intelligence Surveillance Court
5 pursuant to section 702 of the Foreign Intel-
6 ligence Surveillance Act of 1978 (50 U.S.C.
7 1881a), or amendment thereto, authorizing the
8 intentional acquisition of abouts communica-
9 tions, including all affidavits, procedures, exhib-
10 its, and attachments submitted therewith.

11 (B) The decision, order, or opinion of the
12 Foreign Intelligence Surveillance Court approv-
13 ing such certification, and any pleadings, appli-
14 cations, or memoranda of law associated with
15 such decision, order, or opinion.

16 (C) A summary of the protections in place
17 to detect any material breach.

18 (D) Data or other results of modeling, sim-
19 ulation, or auditing of sample data dem-
20 onstrating that any acquisition method involv-
21 ing the intentional acquisition of abouts com-
22 munications shall be conducted in accordance
23 with title VII of the Foreign Intelligence Sur-
24 veillance Act of 1978 (50 U.S.C. 1881 et seq.),
25 if such data or other results exist at the time

1 the written notice is submitted and were pro-
2 vided to the Foreign Intelligence Surveillance
3 Court.

4 (E) Except as provided under paragraph
5 (4), a statement that no acquisition authorized
6 under subsection (a) of such section 702 shall
7 include the intentional acquisition of an abouts
8 communication until after the end of the 30-day
9 period described in paragraph (2)(B).

10 (4) EXCEPTION FOR EMERGENCY ACQUISITION.—
11 TION.—

12 (A) NOTICE OF DETERMINATION.—If the
13 Attorney General and the Director of National
14 Intelligence make a determination pursuant to
15 section 702(c)(2) of the Foreign Intelligence
16 Surveillance Act of 1978 (50 U.S.C.
17 1881a(c)(2)) with respect to the intentional ac-
18 quisition of abouts communications, the Attor-
19 ney General and the Director of National Intel-
20 ligence shall notify the Committee on the Judi-
21 ciary and the Select Committee on Intelligence
22 of the Senate and the Committee on the Judici-
23 ary and the Permanent Select Committee on
24 Intelligence of the House of Representatives as

1 soon as practicable, but not later than 7 days
2 after the determination is made.

3 (B) IMPLEMENTATION OR CONTINU-
4 ATION.—

5 (i) IN GENERAL.—If the Foreign In-
6 telligence Surveillance Court approves a
7 certification that authorizes the intentional
8 acquisition of abouts communications be-
9 fore the end of the 30-day period described
10 in paragraph (2)(B), the Attorney General
11 and the Director of National Intelligence
12 may authorize the immediate implementa-
13 tion or continuation of that certification if
14 the Attorney General and the Director of
15 National Intelligence jointly determine that
16 exigent circumstances exist such that with-
17 out such immediate implementation or con-
18 tinuation intelligence important to the na-
19 tional security of the United States may be
20 lost or not timely acquired.

21 (ii) NOTICE.—The Attorney General
22 and Director of National Intelligence shall
23 submit to the Committee on the Judiciary
24 and the Select Committee on Intelligence
25 of the Senate and the Committee on the

1 Judiciary and the Permanent Select Com-
2 mittee on Intelligence of the House of Rep-
3 resentatives notification of a determination
4 pursuant to clause (i) as soon as prac-
5 ticable, but not later than 3 days after the
6 determination is made.

7 (5) REPORTING OF MATERIAL BREACH.—Sub-
8 section (m) of section 702 (50 U.S.C. 1881a), as re-
9 designated by section 201, is amended—

10 (A) in the heading by striking “AND RE-
11 VIEWS” and inserting “REVIEWS, AND REPORT-
12 ING”; and

13 (B) by adding at the end the following new
14 paragraph:

15 “(4) REPORTING OF MATERIAL BREACH.—

16 “(A) IN GENERAL.—The head of each ele-
17 ment of the intelligence community involved in
18 the acquisition of abouts communications shall
19 fully and currently inform the Committees on
20 the Judiciary of the House of Representatives
21 and the Senate and the congressional intel-
22 ligence committees of a material breach.

23 “(B) DEFINITIONS.—In this paragraph:

24 “(i) The term ‘abouts communication’
25 means a communication that contains ref-

1 erence to, but is not to or from, a facility,
2 a place, premises, or property at which an
3 acquisition authorized under subsection (a)
4 is directed or conducted.

5 “(ii) The term ‘material breach’
6 means significant noncompliance with ap-
7 plicable law or an order of the Foreign In-
8 telligence Surveillance Court concerning
9 any acquisition of abouts communica-
10 tions.”.

11 (6) APPOINTMENT OF AMICI CURIAE BY FOR-
12 EIGN INTELLIGENCE SURVEILLANCE COURT.—For
13 purposes of section 103(i)(2)(A) of the Foreign In-
14 telligence Surveillance Act of 1978 (50 U.S.C.
15 1803(i)(2)(A)), the Foreign Intelligence Surveillance
16 Court shall treat the first certification under section
17 702(g) of such Act (50 U.S.C. 1881a(g)) or amend-
18 ment thereto that authorizes the acquisition of
19 abouts communications as presenting a novel or sig-
20 nificant interpretation of the law, unless the court
21 determines otherwise.

22 **SEC. 204. PUBLICATION OF MINIMIZATION PROCEDURES**
23 **UNDER SECTION 702.**

24 Section 702(e) (50 U.S.C. 1881a(e)) is amended by
25 adding at the end the following new paragraph:

1 “(3) PUBLICATION.—The Director of National
2 Intelligence, in consultation with the Attorney Gen-
3 eral, shall—

4 “(A) conduct a declassification review of
5 any minimization procedures adopted or amend-
6 ed in accordance with paragraph (1); and

7 “(B) consistent with such review, and not
8 later than 180 days after conducting such re-
9 view, make such minimization procedures pub-
10 licly available to the greatest extent practicable,
11 which may be in redacted form.”.

12 **SEC. 205. COMPENSATION OF AMICI CURIAE AND TECH-**
13 **NICAL EXPERTS.**

14 Subsection (i) of section 103 (50 U.S.C. 1803) is
15 amended by adding at the end the following:

16 “(11) COMPENSATION.—Notwithstanding any
17 other provision of law, a court established under
18 subsection (a) or (b) may compensate an amicus cu-
19 riae appointed under paragraph (2) for assistance
20 provided under such paragraph as the court con-
21 siders appropriate and at such rate as the court con-
22 siders appropriate.”.

23 **SEC. 206. ADDITIONAL REPORTING REQUIREMENTS.**

24 (a) ELECTRONIC SURVEILLANCE.—Section 107 (50
25 U.S.C. 1807) is amended to read as follows:

1 **“SEC. 107. REPORT OF ELECTRONIC SURVEILLANCE.**

2 “(a) ANNUAL REPORT.—In April of each year, the
3 Attorney General shall transmit to the Administrative Of-
4 fice of the United States Courts and to the congressional
5 intelligence committees and the Committees on the Judici-
6 ary of the House of Representatives and the Senate a re-
7 port setting forth with respect to the preceding calendar
8 year—

9 “(1) the total number of applications made for
10 orders and extensions of orders approving electronic
11 surveillance under this title;

12 “(2) the total number of such orders and exten-
13 sions either granted, modified, or denied; and

14 “(3) the total number of persons who were sub-
15 ject to electronic surveillance conducted under an
16 order or emergency authorization under this title,
17 rounded to the nearest 500, including the number of
18 such individuals who are United States persons, re-
19 ported to the nearest band of 500, starting with 0–
20 499.

21 “(b) FORM.—Each report under subsection (a) shall
22 be submitted in unclassified form, to the extent consistent
23 with national security. Not later than 7 days after the date
24 on which the Attorney General submits each such report,
25 the Attorney General shall make the report publicly avail-
26 able, or, if the Attorney General determines that the re-

1 port cannot be made publicly available consistent with na-
2 tional security, the Attorney General may make publicly
3 available an unclassified summary of the report or a re-
4 dacted version of the report.”.

5 (b) PEN REGISTERS AND TRAP AND TRACE DE-
6 VICES.—Section 406 (50 U.S.C. 1846) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (4), by striking “; and”
9 and inserting a semicolon;

10 (B) in paragraph (5), by striking the pe-
11 riod at the end and inserting “; and”; and

12 (C) by adding at the end the following new
13 paragraph:

14 “(6) a good faith estimate of the total number
15 of subjects who were targeted by the installation and
16 use of a pen register or trap and trace device under
17 an order or emergency authorization issued under
18 this title, rounded to the nearest 500, including—

19 “(A) the number of such subjects who are
20 United States persons, reported to the nearest
21 band of 500, starting with 0–499; and

22 “(B) of the number of United States per-
23 sons described in subparagraph (A), the num-
24 ber of persons whose information acquired pur-
25 suant to such order was reviewed or accessed by

1 a Federal officer, employee, or agent, reported
2 to the nearest band of 500, starting with 0–
3 499.”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(c) Each report under subsection (b) shall be sub-
7 mitted in unclassified form, to the extent consistent with
8 national security. Not later than 7 days after the date on
9 which the Attorney General submits such a report, the At-
10 torney General shall make the report publicly available,
11 or, if the Attorney General determines that the report can-
12 not be made publicly available consistent with national se-
13 curity, the Attorney General may make publicly available
14 an unclassified summary of the report or a redacted
15 version of the report.”.

16 **SEC. 207. PROCEDURES REGARDING DISSEMINATION OF**
17 **NONPUBLICLY AVAILABLE INFORMATION**
18 **CONCERNING UNITED STATES PERSONS.**

19 (a) PROCEDURES.—

20 (1) IN GENERAL.—Title V of the National Se-
21 curity Act of 1947 (50 U.S.C. 3091 et seq.) is
22 amended by adding at the end the following new sec-
23 tion:

1 **“SEC. 512. PROCEDURES REGARDING DISSEMINATION OF**
2 **NONPUBLICLY AVAILABLE INFORMATION**
3 **CONCERNING UNITED STATES PERSONS.**

4 “(a) **PROCEDURES.**—The head of each element of the
5 intelligence community, in consultation with the Director
6 of National Intelligence, shall develop and maintain proce-
7 dures for that element to respond to covered requests.

8 “(b) **REQUIREMENTS.**—The procedures under sub-
9 section (a) shall ensure, at a minimum, the following:

10 “(1) The originating element documents in
11 writing each covered request received by the element,
12 including—

13 “(A) the name or title of the individual of
14 the requesting element who is making the re-
15 quest;

16 “(B) the name or title of each individual
17 who will receive the United States person iden-
18 tity information sought by the covered request;
19 and

20 “(C) a fact-based justification describing
21 why such United States person identity infor-
22 mation is required by each individual described
23 in subparagraph (B) to carry out the duties of
24 the individual.

25 “(2) A covered request may only be approved
26 by the head of the originating element or by officers

1 or employees of such element to whom the head has
2 specifically delegated such authority.

3 “(3) The originating element retains records on
4 covered requests, including the disposition of such
5 requests, for not less than 5 years.

6 “(4) The records described in paragraph (3) in-
7 clude, with respect to approved covered requests, the
8 name or title of the individual of the originating ele-
9 ment who approved such request.

10 “(5) The procedures include an exception
11 that—

12 “(A) allows for the immediate disclosure of
13 United States person identity information in
14 the event of exigent circumstances or where a
15 delay could result in the loss of intelligence; and

16 “(B) requires that promptly after such dis-
17 closure the requesting element makes a covered
18 request with respect to such information.

19 “(6) If a covered request is made during a pe-
20 riod beginning on the date of a general election for
21 President and ending on the date on which such
22 President is inaugurated—

23 “(A) the documentation under paragraph
24 (1) includes whether—

1 “(i) the individual of a requesting ele-
2 ment who is making the request knows or
3 believes that any United States person
4 identity sought by the request is of an in-
5 dividual who is a member of the transition
6 team of the President-elect and Vice-Presi-
7 dent-elect; or

8 “(ii) based on the intelligence commu-
9 nity report to which the request pertains,
10 the originating element knows or reason-
11 ably believes that any United States person
12 identity sought by the request is of an in-
13 dividual who is a member of the transition
14 team of the President-elect and Vice-Presi-
15 dent-elect;

16 “(B) the approval made pursuant to para-
17 graph (2) of a covered request that contains a
18 United States person identity described in sub-
19 paragraph (A) is subject to the concurrence of
20 the general counsel of the originating element
21 (or, in the absence of the general counsel, the
22 first assistant general counsel) that the dissemi-
23 nation of such identity information is in accord-
24 ance with the procedures under subsection (a);
25 and

1 “(C) consistent with due regard for the
2 protection from unauthorized disclosure of clas-
3 sified information relating to sensitive intel-
4 ligence sources and methods or other exception-
5 ally sensitive matters, the head of the origi-
6 nating element notifies the chairmen and rank-
7 ing minority members of the congressional in-
8 telligence committees of any approval described
9 in subparagraph (B) by not later than 14 days
10 after the date of such approval.

11 “(c) ANNUAL REPORTS.—Not later than April 30 of
12 each year, the head of each element of the intelligence
13 community shall submit to the congressional intelligence
14 committees a report documenting, with respect to the year
15 covered by the report—

16 “(1) the total number of covered requests re-
17 ceived by that element;

18 “(2) of such total number, the number of re-
19 quests approved;

20 “(3) of such total number, the number of re-
21 quests denied; and

22 “(4) for each number calculated under para-
23 graphs (1) through (3), the number listed by each
24 requesting element.

1 “(d) CERTAIN PROCEDURES REGARDING CONGRES-
2 SIONAL IDENTITY INFORMATION.—

3 “(1) REQUIREMENTS.—With respect to the dis-
4 semination of congressional identity information, the
5 head of each element of the intelligence community
6 shall carry out this section in accordance with annex
7 A of Intelligence Community Directive 112, or suc-
8 cessor annex or directive.

9 “(2) NOTIFICATION.—The Director of National
10 Intelligence may not modify or supersede annex A of
11 Intelligence Community Directive 112, or successor
12 annex or directive, unless—

13 “(A) the Director notifies the congressional
14 intelligence committees of the proposed modi-
15 fications or new annex or directive; and

16 “(B) a period of 30 days elapses following
17 such notification.

18 “(e) EFFECT ON MINIMIZATION PROCEDURES.—The
19 requirements of this section are in addition to any mini-
20 mization procedures established pursuant to the Foreign
21 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
22 seq.), Executive Order No. 12333 (50 U.S.C. 3001 note),
23 or successor order, or other relevant provision of law or
24 executive order.

25 “(f) DEFINITIONS.—In this section:

1 “(1) The term ‘covered request’ means a re-
2 quest by a requesting element to an originating ele-
3 ment for nonpublic identifying information with re-
4 spect to a known unconsenting United States person
5 that was omitted from an intelligence community re-
6 port disseminated by the originating element.

7 “(2) The term ‘originating element’ means an
8 element of the intelligence community that dissemi-
9 nates an intelligence community report that contains
10 a reference to a known unconsenting United States
11 person but omits nonpublic identifying information
12 with respect to such person.

13 “(3) The term ‘requesting element’ means an
14 element of the United States Government that re-
15 ceives an intelligence community report from an
16 originating element and makes a covered request
17 with respect to such report.

18 “(4) The term ‘United States person’ has the
19 meaning given the term in section 101 of the For-
20 eign Intelligence Surveillance Act of 1978 (50
21 U.S.C. 1801).”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents in the first section of the National Security
24 Act of 1947 is amended by inserting after the item
25 relating to section 511 the following new item:

“Sec. 512. Procedures regarding dissemination of nonpublicly available information concerning United States persons.”.

1 (b) DEVELOPMENT OF PROCEDURES.—The head of
2 each element of the intelligence community shall develop
3 the procedures required by section 512(a) of the National
4 Security Act of 1947, as added by subsection (a)(1), by
5 not later than 90 days after the date of the enactment
6 of this Act.

7 (c) REPORT.—Not later than December 31, 2018, the
8 Director of National Intelligence shall submit to the Per-
9 manent Select Committee on Intelligence of the House of
10 Representatives and the Select Committee on Intelligence
11 of the Senate a report assessing the compliance with the
12 procedures required by section 512(a) of the National Se-
13 curity Act of 1947, as added by subsection (a)(1).

14 **SEC. 208. IMPROVEMENTS TO PRIVACY AND CIVIL LIB-**
15 **ERTIES OVERSIGHT BOARD.**

16 (a) APPOINTMENT OF STAFF.—Subsection (j) of sec-
17 tion 1061 of the Intelligence Reform and Terrorism Pre-
18 vention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

19 (1) by redesignating paragraphs (2) and (3) as
20 paragraphs (3) and (4), respectively; and

21 (2) by inserting after paragraph (1) the fol-
22 lowing new paragraph:

23 “(2) APPOINTMENT IN ABSENCE OF CHAIR-
24 MAN.—If the position of chairman of the Board is

1 vacant, during the period of the vacancy, the Board,
2 at the direction of the unanimous vote of the serving
3 members of the Board, may exercise the authority of
4 the chairman under paragraph (1).”.

5 (b) MEETINGS.—Subsection (f) of such section (42
6 U.S.C. 2000ee(f)) is amended—

7 (1) by striking “The Board shall” and inserting
8 “‘The Board’”;

9 (2) in paragraph (1) by striking “make its” and
10 inserting “shall make its”; and

11 (3) in paragraph (2)—

12 (A) by striking “hold public” and inserting
13 “‘shall hold public’”; and

14 (B) by inserting before the period at the
15 end the following: “, but may, notwithstanding
16 section 552b of title 5, United States Code,
17 meet or otherwise communicate in any number
18 to confer or deliberate in a manner that is
19 closed to the public”.

20 **SEC. 209. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

21 Section 1062(a) of the Intelligence Reform and Ter-
22 rorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(a))
23 is amended by inserting “, the Director of the National
24 Security Agency, the Director of the Federal Bureau of

1 Investigation” after “the Director of the Central Intel-
2 ligence Agency”.

3 **SEC. 210. WHISTLEBLOWER PROTECTIONS FOR CONTRAC-**
4 **TORS OF THE INTELLIGENCE COMMUNITY.**

5 (a) PROHIBITED PERSONNEL PRACTICES IN THE IN-
6 TELLIGENCE COMMUNITY.—Section 1104 of the National
7 Security Act of 1947 (50 U.S.C. 3234) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (3), by inserting “or a
10 contractor employee” after “character”); and

11 (B) by adding at the end the following new
12 paragraph:

13 “(4) CONTRACTOR EMPLOYEE.—The term ‘con-
14 tractor employee’ means an employee of a con-
15 tractor, subcontractor, grantee, subgrantee, or per-
16 sonal services contractor, of a covered intelligence
17 community element.”;

18 (2) by redesignating subsections (c) and (d) as
19 subsections (d) and (e), respectively;

20 (3) by inserting after subsection (b) the fol-
21 lowing new subsection (c):

22 “(c) CONTRACTOR EMPLOYEES.—(1) Any employee
23 of a contractor, subcontractor, grantee, subgrantee, or
24 personal services contractor, of a covered intelligence com-
25 munity element who has authority to take, direct others

1 to take, recommend, or approve any personnel action, shall
2 not, with respect to such authority, take or fail to take
3 a personnel action with respect to any contractor employee
4 as a reprisal for a lawful disclosure of information by the
5 contractor employee to the Director of National Intel-
6 ligence (or an employee designated by the Director of Na-
7 tional Intelligence for such purpose), the Inspector Gen-
8 eral of the Intelligence Community, the head of the con-
9 tracting agency (or an employee designated by the head
10 of that agency for such purpose), the appropriate inspec-
11 tor general of the contracting agency, a congressional in-
12 telligence committee, or a member of a congressional intel-
13 ligence committee, which the contractor employee reason-
14 ably believes evidences—

15 “(A) a violation of any Federal law, rule, or
16 regulation (including with respect to evidence of an-
17 other employee or contractor employee accessing or
18 sharing classified information without authoriza-
19 tion); or

20 “(B) gross mismanagement, a gross waste of
21 funds, an abuse of authority, or a substantial and
22 specific danger to public health or safety.

23 “(2) A personnel action under paragraph (1) is pro-
24 hibited even if the action is undertaken at the request of
25 an agency official, unless the request takes the form of

1 a nondiscretionary directive and is within the authority of
2 the agency official making the request.”;

3 (4) in subsection (b), by striking the heading
4 and inserting “AGENCY EMPLOYEES.—”; and

5 (5) in subsection (e), as redesignated by para-
6 graph (2), by inserting “contractor employee,” after
7 “any employee.”.

8 (b) FEDERAL BUREAU OF INVESTIGATION.—

9 (1) IN GENERAL.—Any employee of a con-
10 tractor, subcontractor, grantee, subgrantee, or per-
11 sonal services contractor, of the Federal Bureau of
12 Investigation who has authority to take, direct oth-
13 ers to take, recommend, or approve any personnel
14 action, shall not, with respect to such authority, take
15 or fail to take a personnel action with respect to a
16 contractor employee as a reprisal for a disclosure of
17 information—

18 (A) made—

19 (i) to a supervisor in the direct chain
20 of command of the contractor employee;

21 (ii) to the Inspector General;

22 (iii) to the Office of Professional Re-
23 sponsibility of the Department of Justice;

1 (iv) to the Office of Professional Re-
2 sponsibility of the Federal Bureau of In-
3 vestigation;

4 (v) to the Inspection Division of the
5 Federal Bureau of Investigation;

6 (vi) to the Office of Special Counsel;

7 or

8 (vii) to an employee designated by any
9 officer, employee, office, or division de-
10 scribed in clauses (i) through (vii) for the
11 purpose of receiving such disclosures; and

12 (B) which the contractor employee reason-
13 ably believes evidences—

14 (i) any violation of any law, rule, or
15 regulation (including with respect to evi-
16 dence of another employee or contractor
17 employee accessing or sharing classified in-
18 formation without authorization); or

19 (ii) gross mismanagement, a gross
20 waste of funds, an abuse of authority, or
21 a substantial and specific danger to public
22 health or safety.

23 (2) ACTIONS BY REQUEST.—A personnel action
24 under paragraph (1) is prohibited even if the action
25 is undertaken at the request of an official of the Bu-

1 reau, unless the request takes the form of a nondis-
2 cretionary directive and is within the authority of
3 the official making the request.

4 (3) REGULATIONS.—The Attorney General shall
5 prescribe regulations to ensure that a personnel ac-
6 tion described in paragraph (1) shall not be taken
7 against a contractor employee of the Bureau as a re-
8 prisal for any disclosure of information described in
9 subparagraph (A) of such paragraph.

10 (4) ENFORCEMENT.—The President shall pro-
11 vide for the enforcement of this subsection.

12 (5) DEFINITIONS.—In this subsection:

13 (A) The term “contractor employee”
14 means an employee of a contractor, subcon-
15 tractor, grantee, subgrantee, or personal serv-
16 ices contractor, of the Federal Bureau of Inves-
17 tigation.

18 (B) The term “personnel action” means
19 any action described in clauses (i) through (x)
20 of section 2302(a)(2)(A) of title 5, United
21 States Code, with respect to a contractor em-
22 ployee.

23 (c) RETALIATORY REVOCATION OF SECURITY
24 CLEARANCES AND ACCESS DETERMINATIONS.—Section
25 3001(j) of the Intelligence Reform and Terrorism Preven-

1 tion Act of 2004 (50 U.S.C. 3341(j)) is amended by add-
2 ing at the end the following new paragraph:

3 “(8) INCLUSION OF CONTRACTOR EMPLOY-
4 EES.—In this subsection, the term ‘employee’ in-
5 cludes an employee of a contractor, subcontractor,
6 grantee, subgrantee, or personal services contractor,
7 of an agency. With respect to such employees, the
8 term ‘employing agency’ shall be deemed to be the
9 contracting agency.”.

10 **SEC. 211. BRIEFING ON NOTIFICATION REQUIREMENTS.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, the Attorney General, in consultation
13 with the Director of National Intelligence, shall provide
14 to the Committee on the Judiciary and the Permanent Se-
15 lect Committee on Intelligence of the House of Represent-
16 atives and the Committee on the Judiciary and the Select
17 Committee on Intelligence of the Senate a briefing with
18 respect to how the Department of Justice interprets the
19 requirements under sections 106(e), 305(d), and 405(c)
20 of the Foreign Intelligence Surveillance Act of 1978 (50
21 U.S.C. 1806(e), 1825(d), and 1845(e)) to notify an ag-
22 grieved person under such sections of the use of informa-
23 tion obtained or derived from electronic surveillance, phys-
24 ical search, or the use of a pen register or trap and trace
25 device. The briefing shall focus on how the Department

1 interprets the phrase “obtained or derived from” in such
2 sections.

3 **TITLE III—EXTENSION OF AU-**
4 **THORITIES, INCREASED PEN-**
5 **ALTIES, REPORTS, AND**
6 **OTHER MATTERS**

7 **SEC. 301. EXTENSION OF TITLE VII OF FISA; EFFECTIVE**
8 **DATES.**

9 (a) EXTENSION.—Section 403(b) of the FISA
10 Amendments Act of 2008 (Public Law 110–261; 122 Stat.
11 2474) is amended—

12 (1) in paragraph (1)—

13 (A) by striking “December 31, 2017” and
14 inserting “December 31, 2021”; and

15 (B) by inserting “and by the FISA
16 Amendments Reauthorization Act of 2017”
17 after “section 101(a)”; and

18 (2) in paragraph (2) in the matter preceding
19 subparagraph (A), by striking “December 31, 2017”
20 and inserting “December 31, 2021”.

21 (b) CONFORMING AMENDMENTS.—Section 404(b) of
22 the FISA Amendments Act of 2008 (Public Law 110–261;
23 122 Stat. 2476), as amended by section 201, is further
24 amended—

25 (1) in paragraph (1)—

1 (A) in the heading, by striking “DECEM-
2 BER 31, 2017” and inserting “DECEMBER 31,
3 2021”; and

4 (B) by inserting “and by the FISA
5 Amendments Reauthorization Act of 2017”
6 after “section 101(a)”;

7 (2) in paragraph (2), by inserting “and by the
8 FISA Amendments Reauthorization Act of 2017”
9 after “section 101(a)”;

10 (3) in paragraph (4)—

11 (A) by inserting “and amended by the
12 FISA Amendments Reauthorization Act of
13 2017” after “as added by section 101(a)” both
14 places it appears; and

15 (B) by inserting “and by the FISA
16 Amendments Reauthorization Act of 2017”
17 after “as amended by section 101(a)” both
18 places it appears.

19 (c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—
20 The amendments made to the FISA Amendments Act of
21 2008 (Public Law 110–261) by this section shall take ef-
22 fect on the earlier of the date of the enactment of this
23 Act or December 31, 2017.

1 **SEC. 302. INCREASED PENALTY FOR UNAUTHORIZED RE-**
2 **MOVAL AND RETENTION OF CLASSIFIED DOC-**
3 **UMENTS OR MATERIAL.**

4 Section 1924(a) of title 18, United States Code, is
5 amended by striking “one year” and inserting “five
6 years”.

7 **SEC. 303. REPORT ON CHALLENGES TO THE EFFECTIVE-**
8 **NESS OF FOREIGN INTELLIGENCE SURVEIL-**
9 **LANCE.**

10 (a) REPORT.—Not later than 270 days after the date
11 of the enactment of this Act, the Attorney General, in co-
12 ordination with the Director of National Intelligence, shall
13 submit to the Committee on the Judiciary and the Perma-
14 nent Select Committee on Intelligence of the House of
15 Representatives and the Committee on the Judiciary and
16 the Select Committee on Intelligence of the Senate a re-
17 port on current and future challenges to the effectiveness
18 of the foreign intelligence surveillance activities of the
19 United States authorized under the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

21 (b) MATTERS INCLUDED.—The report under sub-
22 section (a) shall include, at a minimum, the following:

23 (1) A discussion of any trends that currently
24 challenge the effectiveness of the foreign intelligence
25 surveillance activities of the United States, or could
26 foreseeably challenge such activities during the dec-

1 ade following the date of the report, including with
2 respect to—

3 (A) the extraordinary and surging volume
4 of data occurring worldwide;

5 (B) the use of encryption;

6 (C) changes to worldwide telecommuni-
7 cations patterns or infrastructure;

8 (D) technical obstacles in determining the
9 location of data or persons;

10 (E) the increasing complexity of the legal
11 regime, including regarding requests for data in
12 the custody of foreign governments;

13 (F) the current and future ability of the
14 United States to obtain, on a compulsory or
15 voluntary basis, assistance from telecommuni-
16 cations providers or other entities; and

17 (G) any other matters the Attorney Gen-
18 eral and the Director of National Intelligence
19 determine appropriate.

20 (2) Recommendations for changes, including, as
21 appropriate, fundamental changes, to the foreign in-
22 telligence surveillance activities of the United States
23 to address the challenges identified under paragraph
24 (1) and to ensure the long-term effectiveness of such
25 activities.

1 (3) Recommendations for any changes to the
2 Foreign Intelligence Surveillance Act of 1978 (50
3 U.S.C. 1801 et seq.) that the Attorney General and
4 the Director of National determine necessary to ad-
5 dress the challenges identified under paragraph (1).

6 (c) FORM.—The report under subsection (a) may be
7 submitted in classified or unclassified form.

8 **SEC. 304. COMPTROLLER GENERAL STUDY ON THE CLASSI-**
9 **FICATION SYSTEM AND PROTECTION OF**
10 **CLASSIFIED INFORMATION.**

11 (a) STUDY.—The Comptroller General of the United
12 States shall conduct a study of the classification system
13 of the United States and the methods by which the intel-
14 ligence community (as defined in section 3(4) of the Na-
15 tional Security Act of 1947 (50 U.S.C. 3003(4))) protects
16 classified information.

17 (b) MATTERS INCLUDED.—The study under sub-
18 section (a) shall address the following:

19 (1) Whether sensitive information is properly
20 classified.

21 (2) The effect of modern technology on the
22 storage and protection of classified information, in-
23 cluding with respect to—

24 (A) using cloud storage for classified infor-
25 mation; and

1 (B) any technological means to prevent or
2 detect unauthorized access to such information.

3 (3) Any ways to improve the classification sys-
4 tem of the United States, including with respect to
5 changing the levels of classification used in such sys-
6 tem and to reduce overclassification.

7 (4) How to improve the authorized sharing of
8 classified information, including with respect to sen-
9 sitive compartmented information.

10 (5) The value of polygraph tests in determining
11 who is authorized to access classified information
12 and in investigating unauthorized disclosures of clas-
13 sified information.

14 (6) Whether each element of the intelligence
15 community—

16 (A) applies uniform standards in deter-
17 mining who is authorized to access classified in-
18 formation; and

19 (B) provides proper training with respect
20 to the handling of classified information and
21 the avoidance of overclassification.

22 (c) REPORT.—Not later than 180 days after the date
23 of the enactment of this Act, the Comptroller General shall
24 submit to the Committee on the Judiciary and the Perma-
25 nent Select Committee on Intelligence of the House of

1 Representatives and the Committee on the Judiciary and
2 the Select Committee on Intelligence of the Senate a re-
3 port containing the study under subsection (a).

4 (d) FORM.—The report under subsection (c) shall be
5 submitted in unclassified form, but may include a classi-
6 fied annex.

7 **SEC. 305. TECHNICAL AMENDMENTS AND AMENDMENTS TO**
8 **IMPROVE PROCEDURES OF THE FOREIGN IN-**
9 **TELLIGENCE SURVEILLANCE COURT OF RE-**
10 **VIEW.**

11 (a) TECHNICAL AMENDMENTS.—The Foreign Intel-
12 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
13 is amended as follows:

14 (1) In section 103(b) (50 U.S.C. 1803(b)), by
15 striking “designate as the” and inserting “des-
16 ignated as the”.

17 (2) In section 302(a)(1)(A)(iii) (50 U.S.C.
18 1822(a)(1)(A)(iii)), by striking “paragraphs (1)
19 through (4)” and inserting “subparagraphs (A)
20 through (D)”.

21 (3) In section 406(b) (50 U.S.C. 1846(b)), by
22 striking “and to the Committees on the Judiciary of
23 the House of Representatives and the Senate”.

24 (4) In section 604(a) (50 U.S.C. 1874(a))—

1 (A) in paragraph (1)(D), by striking “con-
2 tents” and inserting “contents,”; and

3 (B) in paragraph (3), by striking “comply
4 in the into” and inserting “comply into”.

5 (5) In section 701 (50 U.S.C. 1881)—

6 (A) in subsection (a), by striking “The
7 terms” and inserting “In this title, the terms”;
8 and

9 (B) in subsection (b)—

10 (i) by inserting “In this title:” after
11 the subsection heading; and

12 (ii) in paragraph (5), by striking “(50
13 U.S.C. 401a(4))” and inserting “(50
14 U.S.C. 3003(4))”.

15 (6) In section 702(h)(2)(A)(i) (50 U.S.C.
16 1881a(h)(2)(A)(i)), as redesignated by section 201,
17 by inserting “targeting” before “procedures in
18 place”.

19 (7) In section 801(7) (50 U.S.C. 1885(7)), by
20 striking “(50 U.S.C. 401a(4))” and inserting “(50
21 U.S.C. 3003(4))”.

22 (b) COURT-RELATED AMENDMENTS.—The Foreign
23 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
24 seq.) is further amended as follows:

25 (1) In section 103 (50 U.S.C. 1803)—

1 (A) in subsection (b), by striking “imme-
2 diately”; and

3 (B) in subsection (h), by striking “the
4 court established under subsection (a)” and in-
5 serting “a court established under this section”.

6 (2) In section 105(d) (50 U.S.C. 1805(d)), by
7 adding at the end the following new paragraph:

8 “(4) A denial of the application made under section
9 104 may be reviewed as provided in section 103.”.

10 (3) In section 302(d) (50 U.S.C. 1822(d)), by
11 striking “immediately”.

12 (4) In section 402(d) (50 U.S.C. 1842(d)), by
13 adding at the end the following new paragraph:

14 “(3) A denial of the application made under this sub-
15 section may be reviewed as provided in section 103.”.

16 (5) In section 403(c) (50 U.S.C. 1843(c)), by
17 adding at the end the following new paragraph:

18 “(3) A denial of the application made under sub-
19 section (a)(2) may be reviewed as provided in section
20 103.”.

21 (6) In section 501(c) (50 U.S.C. 1861(c)), by
22 adding at the end the following new paragraph:

23 “(4) A denial of the application made under
24 this subsection may be reviewed as provided in sec-
25 tion 103.”.

1 **SEC. 306. SEVERABILITY.**

2 If any provision of this Act, any amendment made
3 by this Act, or the application thereof to any person or
4 circumstances is held invalid, the validity of the remainder
5 of the Act, of any such amendments, and of the applica-
6 tion of such provisions to other persons and circumstances
7 shall not be affected thereby.

