

109TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To reauthorize certain provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 and the Intelligence Reform and Terrorism Prevention Act of 2004, to clarify certain definitions in the Foreign Intelligence Surveillance Act of 1978, to provide additional investigative tools necessary to protect the national security, 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,*

1 **TITLE I—REPEAL OF SUNSET ON**
2 **CERTAIN AUTHORITIES**

3 **SEC. 101. EXPANSION OF ENHANCED SURVEILLANCE PRO-**
4 **CEDURES NOT SUBJECT TO SUNSET UNDER**
5 **USA PATRIOT ACT.**

6 Section 224(a) of the USA PATRIOT Act of 2001
7 (Public Law 107–56; 115 Stat. 295; 18 U.S.C. 2510 note)
8 is amended—

- 9 (1) by striking “203(a), 203(c)” and inserting
10 “203, 204”;
11 (2) by inserting “206, 207,” after “205,”;
12 (3) by inserting “214, 215,” after “213,”;
13 (4) by inserting “218,” after “216,”; and
14 (5) by striking “and 222” and inserting “222,
15 and 225”.

16 **SEC. 102. REPEAL OF SUNSET OF TREATMENT OF INDI-**
17 **VIDUAL TERRORISTS AS AGENTS OF FOR-**
18 **EIGN POWERS.**

19 Section 6001 of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (Public Law 108–458; 118
21 Stat. 3742) is amended—

- 22 (1) by striking “(a) IN GENERAL.—”; and
23 (2) by striking subsection (b).

1 **TITLE II—FOREIGN INTEL-**
2 **LIGENCE SURVEILLANCE**
3 **MATTERS**

4 **Subtitle A—Definitional Matters**

5 **SEC. 201. TREATMENT AS AGENTS OF FOREIGN POWERS**
6 **UNDER FOREIGN INTELLIGENCE SURVEIL-**
7 **LANCE ACT OF 1978 OF NON-UNITED STATES**
8 **PERSONS WHO AID OR ABET TERRORIST**
9 **GROUPS.**

10 Section 101(b)(1)(A) of the Foreign Intelligence Sur-
11 veillance Act of 1978 (50 U.S.C. 1801(b)(1)(A)) is amend-
12 ed by inserting “, or knowingly aids, abets, or conspires
13 with any person who knowingly engages in sabotage or
14 international terrorism, or activities in preparation there-
15 for, for or on behalf of a foreign power as defined in sub-
16 section (a)(4)” before the semicolon.

17 **SEC. 202. CLARIFICATION OF CONTENTS OF COMMUNICA-**
18 **TIONS FOR PURPOSES OF FOREIGN INTEL-**
19 **LIGENCE SURVEILLANCE ACT OF 1978.**

20 Subsection (n) of section 101 of the Foreign Intel-
21 ligence Surveillance Act of 1978 (50 U.S.C. 1801) is
22 amended to read as follows:

23 “(n) ‘Contents’, with respect to a communication, in-
24 cludes any information concerning the substance, purport,
25 or meaning of such communication.”

1 **SEC. 203. CLARIFICATION OF FOREIGN INTELLIGENCE IN-**
2 **FORMATION FOR PURPOSES OF FOREIGN IN-**
3 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

4 Section 101(e)(1) of the Foreign Intelligence Surveil-
5 lance Act of 1978 (50 U.S.C. 1801(e)(1)) is amended in
6 the matter preceding subparagraph (A) by inserting “(in-
7 cluding protection by use of law enforcement methods such
8 as criminal prosecution)” after “protect”.

9 **Subtitle B—Other Matters**

10 **SEC. 211. ACCESS TO BUSINESS RECORDS FOR INVESTIGA-**
11 **TIONS UNDER FOREIGN INTELLIGENCE SUR-**
12 **VEILLANCE ACT OF 1978.**

13 (a) **CLARIFICATION OF ACCESS.**—(1) Subsection
14 (a)(1) of section 501 of the Foreign Intelligence Surveil-
15 lance Act of 1978 (50 U.S.C. 1861) is amended—

16 (A) by striking “for” and inserting “relevant
17 to”; and

18 (B) by striking “clandestine intelligence activi-
19 ties,” and all that follows through the period and in-
20 serting “clandestine intelligence activities.”.

21 (2) Subsection (b)(2) of such section is amended by
22 striking “sought for” and inserting “relevant to”.

23 (b) **LIMITATIONS ON DISCLOSURE.**—Such section is
24 further amended by striking subsection (d) and inserting
25 the following new subsection (d):

1 “(d)(1) No person shall disclose to any other person
2 that the Federal Bureau of Investigation has sought or
3 obtained tangible things pursuant to an order under this
4 section other than to—

5 “(A) those persons to whom such disclosure is
6 necessary to comply with such order;

7 “(B) an attorney to obtain legal advice with re-
8 spect to the production of things in response to the
9 order; or

10 “(C) other persons as permitted by the Director
11 of the Federal Bureau of Investigation or the des-
12 ignee of the Director.

13 “(2)(A) Any person having received a disclosure
14 under subparagraph (A), (B), or (C) of paragraph (1)
15 shall be subject to the prohibitions on disclosure under
16 that paragraph.

17 “(B) Any person making a further disclosure author-
18 ized by subparagraph (A), (B), or (C) of paragraph (1)
19 shall notify the person to whom the disclosure is made
20 of the prohibitions on disclosure under this subsection.

21 “(3) An order under this section shall notify, in writ-
22 ing, the person to whom the order is directed of the non-
23 disclosure requirements under this subsection.”.

24 (c) MINIMIZATION OF RETENTION AND DISSEMINA-
25 TION OF TANGIBLE THINGS.—Such section is further

1 amended by adding at the end the following new sub-
2 section:

3 “(f) The Attorney General shall adopt minimization
4 procedures governing the retention and dissemination by
5 the Federal Bureau of Investigation of any tangible things
6 received by the Bureau in response to an order under this
7 section.”.

8 (d) CONGRESSIONAL OVERSIGHT.—Section 502(b) of
9 such Act (50 U.S.C. 1862(b)) is amended—

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

12 (2) in paragraph (2), by striking the period at
13 the end and inserting “; and” ; and

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

16 “(3) the total number of applications made for
17 orders approving requests for the production of tan-
18 gible things under section 501, and the total number
19 of orders either granted, modified, or denied, when
20 the application or order involved each of the fol-
21 lowing:

22 “(A) The production of tangible things
23 from a library, as defined in section 213(2) of
24 the Library Services and Technology Act (20
25 U.S.C. 9122(2)).

1 “(B) The production of tangible things
2 from a person or entity primarily engaged in
3 the sale, rental, or delivery of books, journals,
4 magazines, or other similar forms of commu-
5 nication whether in print or digitally.

6 “(C) The production of records related to
7 the purchase of a firearm, as defined in section
8 921(a)(3) of title 18, United States Code.

9 “(D) The production of health information,
10 as defined in section 1171(4) of the Social Se-
11 curity Act (42 U.S.C. 1320d(4)).

12 “(E) The production of taxpayer return in-
13 formation, return, or return information, as de-
14 fined in section 6103(b) of the Internal Rev-
15 enue Code of 1986 (26 U.S.C. 6103(b)).”.

16 **SEC. 212. NATIONAL SECURITY MAIL COVERS.**

17 (a) IN GENERAL.—The Foreign Intelligence Surveil-
18 lance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

19 (1) by striking title VII; and

20 (2) by adding at the end the following new title

21 VII:

22 “TITLE VII—NATIONAL SECURITY MAIL
23 COVERS

24 “DEFINITIONS

25 “SEC. 701. In this title:

1 “(1) The terms ‘foreign intelligence informa-
2 tion, ‘foreign power’, ‘international terrorism’, and
3 ‘United States person’ have the meaning given such
4 terms in section 101.

5 “(2)(A) The term ‘mail cover’ means the proc-
6 ess by which—

7 “(i) a nonconsensual record is made of any
8 data appearing on the outside cover of any
9 sealed mail or unsealed mail delivered to an ad-
10 dress, forwarding address, or Post Office box;
11 or

12 “(ii) a record is made of the contents of
13 any unsealed mail as authorized by law.

14 “(B) The term does not include any tran-
15 scription, photograph, photocopy, or any other fac-
16 simile of the image of the contents of any sealed
17 mail.

18 “(3) The term ‘record’ means—

19 “(A) in the case of any mail, a tran-
20 scription, photograph, photocopy, or other fac-
21 simile of the image of the outside contents,
22 cover, envelope, or wrapper of such mail; and

23 “(B) in the case of unsealed mail, a tran-
24 scription, photograph, photocopy, or other fac-
25 simile of the image of the contents of such mail.

1 “(4) The term ‘sealed mail’ means mail on
2 which appropriate postage is paid, and which under
3 postal laws and regulations is included within a class
4 of mail maintained by the United States Postal
5 Service for the transmission of mail sealed against
6 inspection, including first class mail, express mail,
7 international letter mail, and mailgram messages.

8 “(5) The term ‘unsealed mail’ means mail on
9 which appropriate postage for sealed mail has not
10 been paid and which under postal laws or regula-
11 tions is not included within a class of mail main-
12 tained by the United States Postal Service for the
13 transmission of mail sealed against inspection, in-
14 cluding second class mail, third class mail, and
15 fourth class mail, and international parcel post mail.

16 “NATIONAL SECURITY MAIL COVERS

17 “SEC. 702. (a) DUTY TO PROVIDE.—(1) The United
18 States Postal Service shall comply with each request for
19 mail covers made under subsection (b).

20 “(2) In complying under paragraph (1) with a re-
21 quest for mail covers with respect to a target specified in
22 the request, the United States Postal Service shall provide
23 available records of all mail matter specified in the request
24 that is delivered to the address, forwarding address, or
25 Post Office box of the target as specified in the request.

1 “(3) In complying under paragraph (1) with a re-
2 quest for mail covers with respect to a target specified in
3 the request, the United States Postal Service shall, if re-
4 quested, provide available records of all outgoing mail
5 matter from such target.

6 “(4) Mechanical reproduction shall be used to make
7 records under this subsection, unless circumstances render
8 such reproduction impracticable.

9 “(b) REQUESTS FOR MAIL COVERS.—(1) The Direc-
10 tor of the Federal Bureau of Investigation, or a designee
11 of the Director in a position not lower than Deputy Assist-
12 ant Director at Bureau headquarters or Special Agent in
13 Charge (including an ‘acting’ Special Agent in Charge) in
14 a Bureau field office designated by the Director, may re-
15 quest mail covers under subsection (a) if the Director or
16 such designee certifies in writing to the United States
17 Postal Service that such mail covers are relevant to an
18 authorized investigation to obtain foreign intelligence in-
19 formation not concerning a United States person or to
20 protect against international terrorism or clandestine in-
21 telligence activities.

22 “(2) An investigation conducted under this section
23 shall—

1 “(A) be conducted under guidelines approved by
2 the Attorney General under Executive Order 12333
3 (or a successor order); and

4 “(B) not be conducted concerning a United
5 States person solely on the basis of activities pro-
6 tected by the first amendment to the Constitution of
7 the United States.

8 “(c) CONTENTS OF REQUEST.—In addition to the
9 certification required under subsection (b) with respect to
10 a request for mail covers described in that subsection, a
11 request for mail covers under subsection (b) shall
12 specify—

13 “(1) the name and address of the Federal Bu-
14 reau of Investigation official making the request;

15 “(2) the authority of such official to make the
16 request;

17 “(3) the name, if known, of the target of the
18 request;

19 “(4) the address, forwarding address, Post Of-
20 fice box, of combination thereof, if known, of the
21 target;

22 “(5) the classes of mail to be covered by the re-
23 quest;

24 “(6) whether incoming mail, outgoing mail, or
25 both are to be covered by the request;

1 “(7) the duration of the request; and

2 “(8) the name and phone number of a local of-
3 ficial of the Bureau who will facilitate the collection
4 of the records produced in response to the request.

5 “(d) DURATION.—(1) Except as provided in para-
6 graph (2), no request for mail covers under subsection (b)
7 shall remain in force longer than 120 consecutive days.

8 “(2) In the case of a request for mail covers under
9 subsection (b) targeted against a foreign power, the re-
10 quest shall remain in force for the lesser of—

11 “(A) the period specified in the request; or

12 “(B) one year.

13 “(3)(A) A request under subsection (b) may be ex-
14 tended, but only upon submittal of a new request under
15 this section.

16 “(B) Except as provided in subparagraph (C), the pe-
17 riod of extension under this paragraph of a request for
18 mail covers shall not be more than 120 days.

19 “(C) The period of extension under this paragraph
20 of a request for mail covers targeted against a foreign
21 power or an agent of a foreign power (as defined in section
22 101(b)(1)(A)) shall be for the lesser of—

23 “(i) the period specified in the request for ex-
24 tension under this paragraph; or

25 “(ii) one year.

1 “(e) MINIMIZATION.—The Attorney General shall
2 adopt minimization procedures governing the retention
3 and dissemination by the Federal Bureau of Investigation
4 of any records received by the Bureau in response to a
5 request under subsection (b).

6 “(f) NONDISCLOSURE REQUIREMENTS.—(1) No offi-
7 cer or employee of the United States Postal Service, or
8 agent thereof, shall disclose to any person that the Federal
9 Bureau of Investigation has sought or received records
10 under a request under subsection (b) other than to—

11 “(A) those persons to whom such disclosure is
12 necessary in order to comply with the request;

13 “(B) an attorney, who shall be an officer or em-
14 ployee of the United States Postal Service, to obtain
15 legal advice with respect to testimony or the produc-
16 tion of records in response to the request; or

17 “(C) other persons as permitted by the Director
18 of the Federal Bureau of Investigation or a designee
19 of the Director under subsection (b).

20 “(2)(A) Any person having received a disclosure
21 under subparagraph (A), (B), or (C) of paragraph (1)
22 shall be subject to the prohibitions on disclosure under
23 that paragraph.

24 “(B) Any person making a further disclosure author-
25 ized by subparagraph (A), (B), or (C) of paragraph (1)

1 shall notify the person to whom the disclosure is made
2 of the prohibitions on disclosure under this subsection.

3 “(3) A request under subsection (b), or an authorized
4 officer or employee of the United States, shall notify, in
5 writing, the person to whom the request is directed of the
6 nondisclosure requirements under this subsection.

7 “CONGRESSIONAL OVERSIGHT

8 “SEC. 703. (a) SEMIANNUAL NOTICE ON USE OF
9 MAIL COVERS.—On a semiannual basis, the Attorney
10 General shall fully inform the Select Committee on Intel-
11 ligence of the Senate and the Permanent Select Committee
12 on Intelligence of the House of Representatives concerning
13 all requests for, and use of, national security mail covers
14 pursuant to this title.

15 “(b) SEMIANNUAL REPORT ON MAIL COVERS RE-
16 QUESTED.—On a semiannual basis, the Attorney General
17 shall submit to the committees of Congress referred to in
18 subsection (a) and to the Committees on the Judiciary of
19 the Senate and the House of Representatives a report set-
20 ting forth, with respect to the preceding six-month period,
21 the total number of national security mail covers requested
22 under this title.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 for that Act is amended by striking the items relating to
25 title VII and section 701 and inserting the following new
26 items:

"TITLE VII—NATIONAL SECURITY MAIL COVERS

"Sec. 701. Definitions.

"Sec. 702. National security mail covers."

"Sec. 703. Congressional oversight."

1 **SEC. 213. ADMINISTRATIVE SUBPOENAS IN NATIONAL SE-**
2 **CURITY INVESTIGATIONS.**

3 (a) IN GENERAL.—The Foreign Intelligence Surveil-
4 lance Act of 1978, as amended by section 212(a) of this
5 Act, is further amended by adding at the end the following
6 new title:

7 "TITLE VIII—ADMINISTRATIVE SUBPOENAS IN
8 NATIONAL SECURITY INVESTIGATIONS

9 "DEFINITIONS

10 "SEC. 801. In this title:

11 "(1) The terms 'international terrorism', 'for-
12 eign intelligence information', 'Attorney General',
13 and 'United States person' have the meaning given
14 such terms in section 101.

15 "(2) The term 'Foreign Intelligence Surveil-
16 lance Court' means the court established by section
17 103(a).

18 "AUTHORIZATION TO ISSUE

19 "SEC. 802. (a) IN GENERAL.—The Director of the
20 Federal Bureau of Investigation, or a designee of the Di-
21 rector in a position not lower than Deputy Assistant Di-
22 rector at Bureau headquarters or a Special Agent in
23 Charge (including an 'acting' Special Agent in Charge) in

1 a Bureau field office designated by the Director, may issue
2 in writing and cause to be served a subpoena requiring—

3 “(1) the production of any records or other ma-
4 terials that are relevant to an authorized investiga-
5 tion to obtain foreign intelligence information not
6 concerning a United States person or to protect
7 against international terrorism or clandestine intel-
8 ligence activities; and

9 “(2) a certification by the custodian of such
10 records or other materials concerning the production
11 and authentication of such records or other mate-
12 rials.

13 “(b) GOVERNING AUTHORITIES.—An investigation
14 conducted under this section shall—

15 “(1) be conducted under guidelines approved by
16 the Attorney General under Executive Order 12333
17 (or a successor order); and

18 “(2) not be conducted concerning a United
19 States person solely upon the basis of activities pro-
20 tected by the first amendment to the Constitution of
21 the United States.

22 “CONTENTS OF SUBPOENAS

23 “SEC. 803. A subpoena issued under section 802
24 shall describe the records or items required to be produced
25 and prescribe a return date within a reasonable period of

1 time within which such records or items can be assembled
2 and made available.

3 "PRODUCTION OF RECORDS

4 "SEC. 804. The production of records under a sub-
5 poena issued under section 802 may be required from any
6 place in any State, or in any territory or other place sub-
7 ject to the jurisdiction of the United States.

8 "SERVICE

9 "SEC. 805. (a) IN GENERAL.—A subpoena issued
10 under section 802 may be served by any person designated
11 in the subpoena as the agent of service.

12 "(b) SERVICE OF SUBPOENA.—

13 "(1) NATURAL PERSON.—Service of a subpoena
14 upon a natural person may be made by personal de-
15 livery of the subpoena to that person, or by certified
16 mail with return receipt requested.

17 "(2) BUSINESS ENTITIES AND ASSOCIATIONS.—

18 Service of a subpoena may be made upon a domestic
19 or foreign corporation, or upon a partnership or
20 other unincorporated association that is subject to
21 suit under a common name, by delivering the sub-
22 poena to an officer, to a managing or general agent,
23 or to any other agent authorized by appointment or
24 by law to receive service of process.

25 "(3) PROOF OF SERVICE.—The affidavit of the
26 person serving the subpoena entered by that person

1 on a true copy thereof shall be sufficient proof of
2 service.

3 "ENFORCEMENT

4 "SEC. 806. (a) ENFORCEMENT.—

5 "(1) IN GENERAL.—In the case of a failure or
6 refusal to obey a subpoena issued under section 802
7 to any person or entity, the Attorney General may
8 invoke the aid of the Foreign Intelligence Surveil-
9 lance Court or any court of the United States within
10 the jurisdiction of which the investigation concerned
11 is carried on, or the subpoenaed person resides, car-
12 ries on business, or may be found, to compel compli-
13 ance with the subpoena.

14 "(2) VENUE FOR PROCEEDINGS.—If a person
15 or entity files, in a court other than the court in
16 which the Government files for enforcement pro-
17 ceedings under paragraph (1), a petition under sec-
18 tion 808 for judicial review of a subpoena issued
19 under section 802 before the Government files for
20 such enforcement proceedings under paragraph (1),
21 the court in which such enforcement proceedings are
22 initiated under paragraph (1) shall dismiss, without
23 prejudice, such enforcement proceedings or transfer
24 further proceedings under this section to the court
25 in which such judicial review proceedings have been
26 initiated.

1 “(b) ORDER.—A court of the United States referred
2 to in subsection (a) may issue an order requiring the sub-
3 poenaed person to produce records or items in accordance
4 with the subpoena, to appear, or to give testimony relating
5 to compliance with the subpoena. Any failure to obey the
6 order of the court may be punished by the court as con-
7 tempt thereof.

8 “(c) SERVICE OF PROCESS.—Any process under this
9 subsection may be served in any judicial district in which
10 the person may be found.

11 “NONDISCLOSURE REQUIREMENTS

12 “SEC. 807. (a) IN GENERAL.—If the Director of the
13 Federal Bureau of Investigation, or a designee of the Di-
14 rector under section 802, certifies that a danger to the
15 national security of the United States may result, no per-
16 son shall disclose to any other person that a subpoena was
17 received or records were provided pursuant to this title,
18 other than to—

19 “(1) those persons to whom such disclosure is
20 necessary in order to comply with the subpoena;

21 “(2) an attorney to obtain legal advice with re-
22 spect to testimony or the production of records in
23 response to the subpoena; or

24 “(3) other persons as permitted by the Director
25 of the Federal Bureau of Investigation or the des-
26 ignee of the Director.

1 “(b) NOTICE OF NONDISCLOSURE REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—A subpoena under section
4 802 shall notify, in writing, the person to whom the
5 subpoena is directed of the nondisclosure require-
6 ments under subsection (a).

7 “(2) NOTICE UNDER FURTHER DISCLOSURES.—
8 Any person making a further disclosure authorized
9 by paragraph (1), (2), or (3) of subsection (a) shall
10 notify the person to whom the disclosure is made of
11 the prohibitions on disclosure under this section.

12 “(c) FURTHER APPLICABILITY OF NONDISCLOSURE
13 REQUIREMENTS.—Any person who receives a disclosure
14 under this section shall be subject to the prohibitions on
15 disclosure under subsection (a).

16 “(d) ENFORCEMENT OF NONDISCLOSURE REQUIRE-
17 MENTS.—Whoever knowingly violates subsection (a) or (c)
18 shall be imprisoned for not more than 1 year, fined not
19 more than \$10,000, or both, and if the violation is com-
20 mitted with the intent to obstruct an investigation de-
21 scribed in section 802(a)(1), shall be imprisoned for not
22 more than 5 years, fined not more than \$50,000, or both.

23 “(e) TERMINATION OF NONDISCLOSURE REQUIRE-
24 MENTS.—If the Director of the Federal Bureau of Inves-
25 tigation, or a designee of the Director under section 802,

1 concludes with respect to any subpoena issued under sec-
2 tion 802 and for which a certification has been made
3 under subsection (a) that nondisclosure is no longer justi-
4 fied by a danger to the national security of the United
5 States—

6 “(1) the provisions of subsections (a) through
7 (d) of this section shall no longer apply with respect
8 to such subpoena; and

9 “(2) an officer, employee, or agency of the
10 United States shall notify the relevant person that
11 such provisions shall no longer apply with respect to
12 such subpoena.

13 “JUDICIAL REVIEW

14 “SEC. 808. (a) JUDICIAL REVIEW.—

15 “(1) IN GENERAL.—At any time before the re-
16 turn date specified in a subpoena issued under sec-
17 tion 802, the person or entity subpoenaed may, in
18 the Foreign Intelligence Surveillance Court or the
19 district court for the district in which that person or
20 entity does business or resides, petition for an order
21 modifying or setting aside the subpoena. Such peti-
22 tion shall be filed in a manner consistent with para-
23 graph (3).

24 “(2) VENUE FOR PROCEEDINGS.—If the Gov-
25 ernment files, in a court other than the court in
26 which judicial review proceedings are initiated under

1 paragraph (1), an enforcement action under section
2 806 before a petition for judicial review proceedings
3 is filed under paragraph (1), the court in which such
4 petition is filed under paragraph (1) shall dismiss,
5 without prejudice, such judicial review proceedings
6 or transfer further proceedings under this section to
7 the court in which such enforcement proceedings
8 have been initiated.

9 “(3) CLOSED PROCEEDINGS.—If a certification
10 has been made under section 807(a) with respect to
11 a subpoena, and the nondisclosure requirements of
12 section 807 continue to apply with respect to such
13 subpoena—

14 “(A) all proceedings under this section
15 shall be closed to the extent necessary to ensure
16 nondisclosure of the issuance of the subpoena,
17 subject to any right to an open hearing in a
18 criminal proceeding; and

19 “(B) all petitions, filings, records, orders,
20 and subpoenas with respect to such proceedings
21 shall be filed and maintained under seal.

22 “(b) REVIEW OF GOVERNMENT SUBMISSIONS.—In
23 all proceedings under this section, the court shall, upon
24 request of the Federal Government, review the submission

1 of the Federal Government, which may include classified
2 information, ex parte and in camera.

3 “(c) MODIFICATION OF NONDISCLOSURE REQUIRE-
4 MENTS.—A court may modify or set aside a nondisclosure
5 requirement imposed under section 807 at the request of
6 a person to whom a subpoena has been directed under sec-
7 tion 802, unless the Director of the Federal Bureau of
8 Investigation certifies to the court that disclosure may re-
9 sult in a danger to the national security of the United
10 States.

11 “(d) STANDARD OF REVIEW.—A court may modify
12 a subpoena under this section only if compliance with the
13 subpoena would be unreasonable or oppressive. A court
14 may set aside a subpoena under this section only upon
15 a showing of an abuse of discretion by the official issuing
16 the subpoena.

17 “IMMUNITY FROM CIVIL LIABILITY

18 “SEC. 809. Any person, including any officer, agent, or
19 employee of a non-natural person, who in good faith pro-
20 duces the records or items requested in a subpoena issued
21 under section 802 shall not be liable in any court of the
22 United States or any State to any customer or other per-
23 son for such production, or for nondisclosure of that pro-
24 duction to the customer or other person.

1 "GUIDELINES

2 "SEC. 810. (a) IN GENERAL.—The Director of the
3 Federal Bureau of Investigation shall, by regulation, es-
4 tablish such guidelines as are necessary to ensure the ef-
5 fective implementation of this title.

6 "(b) MINIMIZATION.—The Attorney General shall
7 adopt specific minimization procedures governing the re-
8 tention and dissemination by the Federal Bureau of Inves-
9 tigation of any records received by the Bureau in response
10 to a subpoena under this title.

11 "CONGRESSIONAL OVERSIGHT

12 "SEC. 811. (a) SEMIANNUAL NOTICE ON USE OF AD-
13 MINISTRATIVE SUBPOENAS.—On a semiannual basis, the
14 Attorney General shall fully inform the Select Committee
15 on Intelligence of the Senate and the Permanent Select
16 Committee on Intelligence of the House of Representatives
17 concerning all requests for, and uses of, administrative
18 subpoenas pursuant to this title.

19 "(b) SEMIANNUAL REPORT ON ADMINISTRATIVE
20 SUBPOENAS REQUESTED.—On a semiannual basis, the
21 Attorney General shall submit to the committees of Con-
22 gress referred to in subsection (a) and to the Committees
23 on the Judiciary of the Senate and the House of Rep-
24 resentatives a report setting forth, with respect to the pre-
25 ceding six-month period—

1 “(1) the total number of administrative sub-
2 poenas issued under this title;

3 “(2) the total number of certifications under
4 section 807(a);

5 “(3) the total number of petitions filed under
6 section 808;

7 “(4) the total number of petitions modified or
8 set aside pursuant to section 808(a); and

9 “(5) the total number of administrative sub-
10 poenas issued under this title requiring the produc-
11 tion of any records or other materials from or with
12 respect to each of the following:

13 “(A) From a library, as defined in section
14 213(2) of the Library Services and Technology
15 Act (20 U.S.C. 9122(2)).

16 “(B) From a person or entity primarily en-
17 gaged in the sale, rental, or delivery of books,
18 journals, magazines, or other similar forms of
19 communication whether in print or digitally.

20 “(C) With respect to the purchase of a
21 firearm, as defined in section 921(a)(3) of title
22 18, United States Code.

23 “(D) With respect to health information,
24 as defined in section 1171 of the Social Secu-
25 rity Act (42 U.S.C. 1320d(4)).

1 “(E) With respect to taxpayer return in-
2 formation, return, or return information, as de-
3 fined in section 6103 (b) of the Internal Rev-
4 enue Code of 1986 (26 U.S.C. 6103(b)).”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 for that Act, as amended by section 212(b) of this Act,
7 is further amended adding at the end the following new
8 items:

“TITLE VIII—ADMINISTRATIVE SUBPOENAS IN NATIONAL
SECURITY INVESTIGATIONS

- “Sec. 801. Definitions.
- “Sec. 802. Authorization to issue.
- “Sec. 803. Contents of subpoena.
- “Sec. 804. Production of records.
- “Sec. 805. Service.
- “Sec. 806. Enforcement.
- “Sec. 807. Nondisclosure requirements.
- “Sec. 808. Judicial review.
- “Sec. 809. Immunity from civil liability.
- “Sec. 810. Guidelines.
- “Sec. 811. Congressional oversight.”.

9 **SEC. 214. MODIFICATION OF SEMIANNUAL REPORT RE-**
10 **QUIREMENT ON ACTIVITIES UNDER FOREIGN**
11 **INTELLIGENCE SURVEILLANCE ACT OF 1978.**

12 Paragraph (2) of section 108(a) of the Foreign Intel-
13 ligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is
14 amended to read as follows:

15 “(2) Each report under the first sentence of para-
16 graph (1) shall include a description of each criminal case
17 in which information acquired under this Act has been au-

1 thORIZED for use at trial during the period covered by such
2 report.”.

3 **SEC. 215. AUTHORITY FOR DISCLOSURE OF ADDITIONAL IN-**
4 **FORMATION IN CONNECTION WITH ORDERS**
5 **FOR PEN REGISTERS OR TRAP AND TRACE**
6 **DEVICES UNDER FOREIGN INTELLIGENCE**
7 **SURVEILLANCE ACT OF 1978.**

8 Section 402(d)(2) of the Foreign Intelligence Surveil-
9 lance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

10 (1) in subparagraph (A)—

11 (A) in clause (ii), by adding “and” at the
12 end; and

13 (B) in clause (iii), by striking the period at
14 the end and inserting a semicolon; and

15 (2) in subparagraph (B)(iii), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(C) shall direct that, upon the request of the
20 applicant, the provider of a wire or electronic com-
21 munication service shall disclose to the Federal offi-
22 cer using the pen register or trap and trace device
23 covered by the order—

1 “(i) in the case of the customer or sub-
2 scriber using the service covered by the order
3 (for the period specified by the order)—

4 “(I) the name of the customer or sub-
5 scriber;

6 “(II) the address of the customer or
7 subscriber;

8 “(III) the telephone or instrument
9 number, or other subscriber number or
10 identifier, of the customer or subscriber,
11 including any temporarily assigned net-
12 work address or associated routing or
13 transmission information;

14 “(IV) the length of the provision of
15 service by such provider to the customer or
16 subscriber and the types of services utilized
17 by the customer or subscriber;

18 “(V) in the case of a provider of local
19 or long distance telephone service, any
20 local or long distance telephone records of
21 the customer or subscriber;

22 “(VI) if applicable, any records re-
23 flecting period of usage (or sessions) by
24 the customer or subscriber; and

1 “(VII) any mechanisms and sources
2 of payment for such service, including the
3 number of any credit card or bank account
4 utilized for payment for such service; and

5 “(ii) if available, with respect to any cus-
6 tomer or subscriber of incoming or outgoing
7 communications to or from the service covered
8 by the order—

9 “(I) the name of such customer or
10 subscriber;

11 “(II) the address of such customer or
12 subscriber;

13 “(III) the telephone or instrument
14 number, or other subscriber number or
15 identifier, of such customer or subscriber,
16 including any temporarily assigned net-
17 work address or associated routing or
18 transmission information; and

19 “(IV) the length of the provision of
20 service by such provider to such customer
21 or subscriber and the types of services uti-
22 lized by such customer or subscriber.”.

1 **SEC. 216. DURATION OF SURVEILLANCE OF NON-UNITED**
2 **STATES PERSONS UNDER FOREIGN INTEL-**
3 **LIGENCE SURVEILLANCE ACT OF 1978.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 105(e) of
5 the Foreign Intelligence Surveillance Act of 1978 (50
6 U.S.C. 1805(e)) is amended—

7 (1) in paragraph (1)(B), by striking “, as de-
8 fined in section 101(b)(1)(A)” and inserting “who is
9 not a United States person”; and

10 (2) in paragraph (2)(B), by striking “as defined
11 in section 101(b)(1)(A)” and inserting “who is not
12 a United States person”.

13 (b) **PHYSICAL SEARCHES.**—Section 304(d) of that
14 Act (50 U.S.C. 1824(d)) is amended—

15 (1) in paragraph (1)(B), by striking “as defined
16 in section 101(b)(1)(A)” and inserting “who is not
17 a United States person”; and

18 (2) in paragraph (2), by striking “as defined in
19 section 101(b)(1)(A)” and inserting “who is not a
20 United States person”.

21 (c) **PEN REGISTERS AND TRAP AND TRACE DE-**
22 **VICES.**—Section 402(e) of that Act (50 U.S.C. 1842(e))
23 is amended—

24 (1) by inserting after “90 days” the first place
25 it appears the following: “, except that in any case
26 in which the applicant has certified that the infor-

1 mation likely to be obtained is foreign intelligence
2 information not concerning a United States person,
3 an order issued under this section may be for a pe-
4 riod not to exceed one year”; and

5 (2) by inserting after “90 days” the second
6 place it appears the following: “, except that in any
7 case in which the applicant has certified that the in-
8 formation likely to be obtained is foreign intelligence
9 information not concerning a United States person,
10 an extension of an order issued under this section
11 may be for a period not to exceed one year”.