

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 737

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. CRAIG (for himself, Mr. DURBIN, Mr. SUNUNU, Mr. FEINGOLD, Ms. MURKOWSKI, and Mr. SALAZAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security and Freedom  
5 Enhancement Act of 2005” or the “SAFE Act”.

1 **SEC. 2. LIMITATIONS ON ROVING WIRETAPS UNDER FOR-**  
2 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**  
3 **1978.**

4 Section 105(c) of the Foreign Intelligence Surveil-  
5 lance Act of 1978 (50 U.S.C. 1805(c)) is amended—

6 (1) in paragraph (1), by striking subparagraphs  
7 (A) and (B) and inserting the following:

8 “(A)(i) the identity of the target of the  
9 electronic surveillance, if known; or

10 “(ii) if the identity of the target is not  
11 known, a description of the target and the na-  
12 ture and location of the facilities and places at  
13 which the electronic surveillance will be di-  
14 rected;

15 “(B)(i) the nature and location of each of  
16 the facilities or places at which the electronic  
17 surveillance will be directed, if known; or

18 “(ii) if any of the facilities or places are  
19 not known, the identity of the target;” and

20 (2) in paragraph (2)—

21 (A) by redesignating subparagraphs (B)  
22 through (D) as subparagraphs (C) through (E),  
23 respectively; and

24 (B) by inserting after subparagraph (A)  
25 the following:

1 “(B) in cases where the facility or place at  
2 which the surveillance will be directed is not  
3 known at the time the order is issued, that the  
4 electronic surveillance be conducted only when  
5 the presence of the target at a particular facil-  
6 ity or place is ascertained by the person con-  
7 ducting the surveillance;”.

8 **SEC. 3. LIMITATIONS ON DELAYED NOTICE SEARCH WAR-**  
9 **RANTS.**

10 (a) IN GENERAL.—Section 3103a(b) of title 18,  
11 United States Code, is amended—

12 (1) in paragraph (1), by striking “may have an  
13 adverse result (as defined in section 2705);” and in-  
14 serting “will—

15 “(A) endanger the life or physical safety of  
16 an individual;

17 “(B) result in flight from prosecution;

18 “(C) result in the destruction of or tam-  
19 pering with evidence; or

20 “(D) result in intimidation of potential  
21 witnesses;”; and

22 (2) in paragraph (3), by striking “within a rea-  
23 sonable period” and all that follows and inserting  
24 “not later than 7 days after the execution of the  
25 warrant, which period may be extended by the court

1 for an additional period of not more than 21 days  
2 each time the court finds reasonable cause to believe,  
3 pursuant to a request by the Attorney General, the  
4 Deputy Attorney General, or the Associate Attorney  
5 General, that notice of the execution of the warrant  
6 will—

7 “(A) endanger the life or physical safety of  
8 an individual;

9 “(B) result in flight from prosecution;

10 “(C) result in the destruction of, or tam-  
11 pering with, the evidence sought under the war-  
12 rant; or

13 “(D) result in intimidation of potential  
14 witnesses.”.

15 (b) REPORTS.—Section 3103a of title 18, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing:

18 “(c) REPORTS.—

19 “(1) IN GENERAL.—Every 6 months, the Attor-  
20 ney General shall submit a report to Congress sum-  
21 marizing, with respect to warrants under subsection  
22 (b), the requests made by the Department of Justice  
23 to delay notice and extend a delay of notice during  
24 the previous 6-month period.

1           “(2) CONTENTS.—Each report submitted under  
2 paragraph (1) shall include, for the preceding 6-  
3 month period—

4           “(A) the number of requests to delay no-  
5 tice with respect to warrants under subsection  
6 (b), categorized as granted, denied, or pending;

7           “(B) for each request to delay notice that  
8 was granted, the number of requests to extend  
9 the delay of notice, categorized as granted, de-  
10 nied, or pending; and

11           “(C) on an aggregate basis, the nature of  
12 the crime being investigated for each request to  
13 delay notice that was granted or denied.

14           “(3) PUBLIC AVAILABILITY.—The Attorney  
15 General shall make the report submitted under para-  
16 graph (1) available to the public.”.

17 **SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOK-**  
18 **SELLER, AND OTHER PERSONAL RECORDS**  
19 **UNDER FOREIGN INTELLIGENCE SURVEIL-**  
20 **LANCE ACT OF 1978.**

21           (a) APPLICATIONS FOR ORDERS.—Section 501(b)(2)  
22 of the Foreign Intelligence Surveillance Act of 1978 (50  
23 U.S.C. 1861(b)(2)) is amended—

24           (1) by striking “shall specify that the records”  
25 and inserting “shall specify that—

1 “(A) the records”;

2 (2) by striking the period at the end and insert-  
3 ing the following: “; and”; and

4 (3) by inserting at the end the following:

5 “(B) there are specific and articulable  
6 facts giving reason to believe that the person to  
7 whom the records pertain is a foreign power or  
8 an agent of a foreign power.”.

9 (b) ORDERS.—Section 501(c) of the Foreign Intel-  
10 ligence Surveillance Act of 1978 (50 U.S.C. 1861(c)) is  
11 amended—

12 (1) in paragraph (1), by striking “finds that”  
13 and all that follows and inserting “finds that—

14 “(A) there are specific and articulable facts giv-  
15 ing reason to believe that the person to whom the  
16 records pertain is a foreign power or an agent of a  
17 foreign power; and

18 “(B) the application meets the other require-  
19 ments of this section.”; and

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

21 “(3) An order under this subsection shall not—

22 “(A) contain any requirement which would be  
23 held to be unreasonable if contained in a subpoena  
24 duces tecum issued by a court of the United States

1 in aid of a grand jury investigation of espionage or  
2 international terrorism; or

3 “(B) require the production of any documen-  
4 tary evidence which would be privileged from disclo-  
5 sure if demanded by a subpoena duces tecum issued  
6 by a court of the United States in aid of a grand  
7 jury investigation of espionage or international ter-  
8 rorism.

9 “(4) An order under this subsection must provide no-  
10 tice of the recipient’s right to file a petition under sub-  
11 section (f) and explain the procedures for doing so.”

12 (c) NONDISCLOSURE.—Section 501(d) of Foreign In-  
13 telligence Surveillance Act of 1978 (50 U.S.C. 1861(d))  
14 is amended to read as follows: “

15 “(d) NONDISCLOSURE.—

16 “(1) IN GENERAL.—No person who receives an  
17 order under subsection (c) shall disclose to any per-  
18 son that the Federal Bureau of Investigation has  
19 sought or obtained tangible things under this section  
20 for 180 days after receipt of such order.

21 “(2) EXCEPTION.—A person who receives an  
22 order under subsection (c) may disclose that the  
23 Federal Bureau of Investigation has sought or ob-  
24 tained tangible things under this section to—

1           “(A) those persons to whom disclosure is  
2           necessary in order to comply with an order  
3           under this section; or

4           “(B) an attorney in order to obtain legal  
5           advice regarding such order.

6           “(3) EXTENSION.—The Director of the Federal  
7           Bureau of Investigation, or a designee of the Direc-  
8           tor (whose rank shall be no lower than Assistant  
9           Special Agent in Charge), may apply for an order  
10          prohibiting disclosure that the Federal Bureau of In-  
11          vestigation has sought or obtained access to tangible  
12          things under this section for an additional 180 days.

13          “(4) JURISDICTION.—An application for an  
14          order pursuant to this subsection shall be made to—

15                 “(A) a judge of the court established under  
16                 section 103(a); or

17                 “(B) a United States Magistrate Judge  
18                 under chapter 43 of title 28, who is publicly  
19                 designated by the Chief Justice of the United  
20                 States to have the power to hear applications  
21                 and grant orders for the production of tangible  
22                 things under this section on behalf of a judge  
23                 of the court established under section 103(a).

24          “(5) APPLICATION CONTENTS.—An application  
25          for an order pursuant to this subsection must state



1 specific and articulable facts giving the applicant  
2 reason to believe that disclosure that the Federal  
3 Bureau of Investigation has sought or obtained tan-  
4 gible things under this section will result in—

5 “(A) endangering the life or physical safety  
6 of any person;

7 “(B) flight from prosecution;

8 “(C) destruction of or tampering with evi-  
9 dence;

10 “(D) intimidation of potential witnesses; or

11 “(E) otherwise seriously endangering the  
12 national security of the United States by alert-  
13 ing a target, a target’s associates, or the for-  
14 eign power of which the target is an agent, of  
15 the Government’s interest in the target.

16 “(6) STANDARD.—The judge may issue an ex  
17 parte order pursuant to this subsection if the judge  
18 determines there is reason to believe that disclosure  
19 that the Federal Bureau of Investigation has sought  
20 or obtained access to tangible things under this sec-  
21 tion will result in—

22 “(A) endangering the life or physical safety  
23 of any person;

24 “(B) flight from prosecution;

1           “(C) destruction of or tampering with evi-  
2           dence;

3           “(D) intimidation of potential witnesses; or

4           “(E) otherwise seriously endangering the  
5           national security of the United States by alert-  
6           ing a target, a target’s associates, or the for-  
7           eign power of which the target is an agent, of  
8           the Government’s interest in the target.

9           “(7) RENEWAL.—An order under this sub-  
10          section may be renewed for additional periods of up  
11          to 180 days upon another application meeting the  
12          requirements of paragraph (5) and a determination  
13          by the court that the circumstances described in  
14          paragraph (6) continue to exist.”.

15          (d) JUDICIAL REVIEW.—Section 501 of the Foreign  
16          Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is  
17          amended by adding at the end the following:

18          “(f) JUDICIAL REVIEW.—

19                 “(1) ORDER FOR PRODUCTION.—Not later than  
20          20 days after the service upon any person of an  
21          order pursuant to subsection (c), or at any time be-  
22          fore the return date specified in the order, whichever  
23          period is shorter, such person may file, in the court  
24          established under section 103(a) or in the district  
25          court of the United States for the judicial district

1 within which such person resides, is found, or trans-  
2 acts business, a petition for such court to modify or  
3 set aside such order. The time allowed for compli-  
4 ance with the order in whole or in part as deemed  
5 proper and ordered by the court shall not run during  
6 the pendency of such petition in the court. Such pe-  
7 tition shall specify each ground upon which the peti-  
8 tioner relies in seeking relief, and may be based  
9 upon any failure of such order to comply with the  
10 provisions of this section or upon any constitutional  
11 or other legal right or privilege of such person.

12 “(2) NONDISCLOSURE ORDER.—

13 “(A) IN GENERAL.—A person prohibited  
14 from disclosing information under subsection  
15 (d) may file, in the courts established by section  
16 103(a) or in the district court of the United  
17 States for the judicial district within which such  
18 person resides, is found, or transacts business,  
19 a petition for such court to set aside the non-  
20 disclosure requirement. Such petition shall  
21 specify each ground upon which the petitioner  
22 relies in seeking relief, and may be based upon  
23 any failure of the nondisclosure requirement to  
24 comply with the provisions of this section or

1 upon any constitutional or other legal right or  
2 privilege of such person.

3 “(B) STANDARD.—The court shall set  
4 aside the nondisclosure requirement unless the  
5 court determines that there is reason to believe  
6 that disclosure of the order under subsection (c)  
7 will result in—

8 “(i) endangering the life or physical  
9 safety of any person;

10 “(ii) flight from prosecution;

11 “(iii) destruction of or tampering with  
12 evidence;

13 “(iv) intimidation of potential wit-  
14 nesses; or

15 “(v) otherwise seriously endangering  
16 the national security of the United States  
17 by alerting a target, a target’s associates,  
18 or the foreign power of which the target is  
19 an agent, of the Government’s interest in  
20 the target.

21 “(3) RULEMAKING.—

22 “(A) IN GENERAL.—Not later than 180  
23 days after the date of enactment of the Security  
24 and Freedom Enhancement Act of 2005, the  
25 courts established pursuant to section 103(a)

1 shall establish such rules and procedures and  
2 take such actions as are reasonably necessary to  
3 administer their responsibilities under this sub-  
4 section.

5 “(B) REPORTING.—Not later than 30 days  
6 after promulgating rules and procedures under  
7 subparagraph (A), the courts established pursu-  
8 ant to section 103(a) shall transmit a copy of  
9 the rules and procedures, unclassified to the  
10 greatest extent possible (with a classified annex,  
11 if necessary), to the Committee on the Judici-  
12 ary and the Select Committee on Intelligence of  
13 the Senate and the Committee on the Judiciary  
14 and the Permanent Select Committee on Intel-  
15 ligence of the House of Representatives.

16 “(4) DISCLOSURES TO PETITIONERS.—In mak-  
17 ing determinations under this subsection, the court  
18 shall disclose to the petitioner, the counsel of the pe-  
19 titioner, or both, under the procedures and stand-  
20 ards provided in the Classified Information Proce-  
21 dures Act (18 U.S.C. App.), portions of the applica-  
22 tion, order, or other related materials unless the  
23 court finds that such disclosure would not assist in  
24 determining any legal or factual issue pertinent to  
25 the case.”.

1 (e) USE OF INFORMATION.—Section 501 of the For-  
2 eign Intelligence Surveillance Act of 1978 (50 U.S.C.  
3 1861), as amended by subsection (d), is amended by add-  
4 ing at the end the following:

5 “(g) USE OF INFORMATION.—

6 “(1) IN GENERAL.—

7 “(A) CONSENT.—Any tangible things or  
8 information acquired from an order pursuant to  
9 this section concerning any United States per-  
10 son may be used and disclosed by Federal offi-  
11 cers and employees without the consent of the  
12 United States person only in accordance with  
13 the provisions of this subsection.

14 “(B) USE AND DISCLOSURE.—No tangible  
15 things or information acquired from an order  
16 pursuant to this section may be used or dis-  
17 closed by Federal officers or employees except  
18 for lawful purposes.

19 “(2) DISCLOSURE FOR LAW ENFORCEMENT  
20 PURPOSES.—No tangible things or information ac-  
21 quired pursuant to this section shall be disclosed for  
22 law enforcement purposes unless such disclosure is  
23 accompanied by a statement that such tangible  
24 things or information, or any information derived  
25 therefrom, may only be used in a criminal pro-

1       ceeding with the advance authorization of the Attor-  
2       ney General.

3           “(3) NOTIFICATION OF INTENDED DISCLOSURE  
4       BY THE UNITED STATES.—Whenever the United  
5       States intends to enter into evidence or otherwise  
6       use or disclose in any trial, hearing, or other pro-  
7       ceeding in or before any court, department, officer,  
8       agency, regulatory body, or other authority of the  
9       United States against an aggrieved person any tan-  
10      gible things or information obtained or derived from  
11      an order pursuant to this section, the United States  
12      shall, before the trial, hearing, or other proceeding  
13      or at a reasonable time before an effort to so dis-  
14      close or so use the tangible things or information or  
15      submit them in evidence, notify the aggrieved person  
16      and the court or other authority in which the tan-  
17      gible things or information are to be disclosed or  
18      used that the United States intends to so disclose or  
19      so use such tangible things or information.

20           “(4) NOTIFICATION OF INTENDED DISCLOSURE  
21      BY STATE OR POLITICAL SUBDIVISION.—Whenever  
22      any State or political subdivision thereof intends to  
23      enter into evidence or otherwise use or disclose in  
24      any trial, hearing, or other proceeding in or before  
25      any court, department, officer, agency, regulatory

1 body, or other authority of the State or political sub-  
2 division thereof against an aggrieved person any tan-  
3 gible things or information obtained or derived from  
4 an order pursuant to this section, the State or polit-  
5 ical subdivision thereof shall notify the aggrieved  
6 person, the court or other authority in which the  
7 tangible things or information are to be disclosed or  
8 used, and the Attorney General that the State or po-  
9 litical subdivision thereof intends to so disclose or so  
10 use such tangible things or information.

11 “(5) MOTION TO SUPPRESS.—

12 “(A) IN GENERAL.—Any aggrieved person  
13 against whom evidence obtained or derived from  
14 an order pursuant to this section is to be, or  
15 has been, introduced or otherwise used or dis-  
16 closed in any trial, hearing, or other proceeding  
17 in or before any court, department, officer,  
18 agency, regulatory body, or other authority of  
19 the United States, or a State or political sub-  
20 division thereof, may move to suppress the evi-  
21 dence obtained or derived from the order, as the  
22 case may be, on the grounds that—

23 “(i) the tangible things or information  
24 were acquired in violation of the Constitu-  
25 tion or laws of the United States; or



1           “(ii) the order was not in conformity  
2           with the requirements of this section.

3           “(B) TIMING.—A motion under subpara-  
4           graph (A) shall be made before the trial, hear-  
5           ing, or other proceeding unless there was no op-  
6           portunity to make such a motion or the ag-  
7           grieved person concerned was not aware of the  
8           grounds of the motion.

9           “(6) JUDICIAL REVIEW.—

10           “(A) IN GENERAL.—Whenever—

11           “(i) a court or other authority is noti-  
12           fied pursuant to paragraph (3) or (4);

13           “(ii) a motion is made pursuant to  
14           paragraph (5); or

15           “(iii) any motion or request is made  
16           by an aggrieved person pursuant to any  
17           other statute or rule of the United States  
18           or any State before any court or other au-  
19           thority of the United States or any State  
20           to—

21           “(I) discover or obtain applica-  
22           tions, orders, or other materials relat-  
23           ing to an order issued pursuant to  
24           this section; or

1                   “(II) discover, obtain, or sup-  
2                   press evidence or information obtained  
3                   or derived from an order issued pur-  
4                   suant to this section;

5                   the United States district court or, where the  
6                   motion is made before another authority, the  
7                   United States district court in the same district  
8                   as the authority shall, notwithstanding any  
9                   other provision of law and if the Attorney Gen-  
10                  eral files an affidavit under oath that disclosure  
11                  would harm the national security of the United  
12                  States, review in camera the application, order,  
13                  and such other related materials as may be nec-  
14                  essary to determine whether the order was law-  
15                  fully authorized and served.

16                  “(B) DISCLOSURE.—In making a deter-  
17                  mination under subparagraph (A), unless the  
18                  court finds that such disclosure would not assist  
19                  in determining any legal or factual issue perti-  
20                  nent to the case, the court shall disclose to the  
21                  aggrieved person, the counsel of the aggrieved  
22                  person, or both, under the procedures and  
23                  standards provided in the Classified Informa-  
24                  tion Procedures Act (18 U.S.C. App.), portions  
25                  of the application, order, or other related mate-

1           rials, or evidence or information obtained or de-  
2           rived from the order.

3           “(7) EFFECT OF DETERMINATION OF LAWFUL-  
4           NESS.—

5                   “(A) UNLAWFUL ORDERS.—If the United  
6           States district court determines pursuant to  
7           paragraph (6) that the order was not author-  
8           ized or served in compliance with the Constitu-  
9           tion or laws of the United States, the court  
10          may, in accordance with the requirements of  
11          law, suppress the evidence which was unlawfully  
12          obtained or derived from the order or otherwise  
13          grant the motion of the aggrieved person.

14                   “(B) LAWFUL ORDERS.—If the court de-  
15          termines that the order was lawfully authorized  
16          and served, it may deny the motion of the ag-  
17          grieved person except to the extent that due  
18          process requires discovery or disclosure.

19                   “(8) BINDING FINAL ORDERS.—Orders grant-  
20          ing motions or requests under paragraph (6), deci-  
21          sions under this section that an order was not law-  
22          fully authorized or served, and orders of the United  
23          States district court requiring review or granting  
24          disclosure of applications, orders, or other related  
25          materials shall be final orders and binding upon all

1 courts of the United States and the several States  
2 except a United States court of appeals or the Su-  
3 preme Court.”.

4 (f) OVERSIGHT OF REQUESTS FOR PRODUCTION OF  
5 RECORDS.—Section 502(a) of the Foreign Intelligence  
6 Surveillance Act of 1978 (50 U.S.C. 1862(a)) is amended  
7 to read as follows:

8 “(a) On a semiannual basis, the Attorney General  
9 shall, with respect to all requests for the production of  
10 tangible things under section 501, fully inform—

11 “(1) the Select Committee on Intelligence of the  
12 Senate;

13 “(2) the Committee on the Judiciary of the  
14 Senate;

15 “(3) the Permanent Select Committee on Intel-  
16 ligence of the House of Representatives; and

17 “(4) the Committee on the Judiciary of the  
18 House of Representatives.”.

19 (g) DEFINITION.—Title V of the Foreign Intelligence  
20 Surveillance Act of 1978 (50 U.S.C. 1861 et seq.) is  
21 amended by adding at the end the following:

22 **“SEC. 503. DEFINITIONS.**

23 “In this title, the following definitions apply:

24 “(1) IN GENERAL.—Except as provided in this  
25 section, terms used in this title that are also used

1 in title I shall have the meanings given such terms  
2 by section 101.

3 “(2) AGGRIEVED PERSON.—The term ‘ag-  
4 grievied person’ means any person whose tangible  
5 things or information were acquired pursuant to an  
6 order under this title.”.

7 **SEC. 5. PROCEDURAL PROTECTIONS FOR NATIONAL SECU-  
8 RITY LETTERS.**

9 (a) STANDARD.—

10 (1) TITLE 18.—Section 2709(b) of title 18,  
11 United States Code, is amended—

12 (A) in paragraph (1), by inserting “and  
13 there are specific and articulable facts giving  
14 reason to believe that the name, address, length  
15 of service, and toll billing records sought per-  
16 tain to a foreign power or agent of a foreign  
17 power” after “clandestine intelligence activi-  
18 ties”; and

19 (B) in paragraph (2), by striking “, pro-  
20 vided that such an investigation” and all that  
21 follows and inserting the following: “and there  
22 are specific and articulable facts giving reason  
23 to believe that communications facilities reg-  
24 istered in the name of the person or entity have

1           been used, through the services of such pro-  
2           vider, in communication with—

3           “(A) an individual who is engaging or has  
4           engaged in international terrorism or clandestine  
5           intelligence activities that involve or may  
6           involve a violation of the criminal statutes of  
7           the United States; or

8           “(B) a foreign power or an agent of a for-  
9           eign power,

10          provided that such investigation of a United States  
11          person is not conducted solely upon the basis of ac-  
12          tivities protected by the first amendment of the Con-  
13          stitution of the United States.”.

14          (2)       FINANCIAL       INSTITUTIONS.—Section  
15          1114(a)(5)(A) of the Right to Financial Privacy Act  
16          of 1978 (12 U.S.C. 3414(a)(5)(A)) is amended by  
17          inserting “and there are specific and articulable  
18          facts giving reason to believe that the records sought  
19          pertain to a foreign power or agent of a foreign  
20          power” after “clandestine intelligence activities”.

21          (3)       CONSUMER REPORTING AGENCY.—

22                (A) IN GENERAL.—Section 625 of the Fair  
23          Credit Reporting Act (15 U.S.C. 1681u) is  
24          amended—

1 (i) in the second sentence of sub-  
2 section (a), by inserting “and there are  
3 specific and articulable facts giving reason  
4 to believe that the information sought per-  
5 tains to a foreign power or agent of a for-  
6 eign power” after “clandestine intelligence  
7 activities”;

8 (ii) in the second sentence of sub-  
9 section (b), by inserting “and there are  
10 specific and articulable facts giving reason  
11 to believe that the consumer is a foreign  
12 power or an agent of a foreign power or  
13 has been, or is about to be, in contact with  
14 a foreign power or an agent of a foreign  
15 power” after “clandestine intelligence ac-  
16 tivities”; and

17 (iii) in the first sentence of subsection  
18 (c), by inserting “and there are specific  
19 and articulable facts giving reason to be-  
20 lieve that the consumer report sought per-  
21 tains to a foreign power or agent of a for-  
22 eign power” after “clandestine intelligence  
23 activities”.

24 (B) GOVERNMENT AGENCIES.—Section  
25 626(a) of the Fair Credit Reporting Act (15

1 U.S.C. 1681v(a)) is amended by inserting “and  
2 there are specific and articulable facts giving  
3 reason to believe that the information sought  
4 pertains to a foreign power or agent of a for-  
5 eign power” after “necessary for the agency’s  
6 conduct or such investigation, activity or anal-  
7 ysis”.

8 (b) REQUIREMENTS.—

9 (1) Section 2709(b) of title 18, United States  
10 Code, as amended by subsection (a)(1) is amended  
11 by—

12 (A) redesignating paragraphs (1) and (2)  
13 as subparagraphs (A) and (B), respectively;

14 (B) striking “The Director of the Federal  
15 Bureau of Investigation” and inserting the fol-  
16 lowing:

17 “(1) IN GENERAL.—The Director of the Fed-  
18 eral Bureau of Investigation”; and

19 (C) adding after paragraph (1), as amend-  
20 ed by subparagraph (B), the following:

21 “(2) LIMITATION.—A request under this subsection  
22 shall not—

23 “(A) contain any requirement which would be  
24 held to be unreasonable if contained in a subpoena  
25 duces tecum issued by a court of the United States



1 in aid of a grand jury investigation of espionage or  
2 international terrorism; or

3 “(B) require the production of any documen-  
4 tary evidence which would be privileged from disclo-  
5 sure if demanded by a subpoena duces tecum issued  
6 by a court of the United States in aid of a grand  
7 jury investigation of espionage or international ter-  
8 rorism.

9 “(3) NOTICE.—A request under this subsection must  
10 provide notice of the recipient’s right to file a petition  
11 under subsection (e) and explain the procedures for doing  
12 so.”.

13 (2) REQUEST FOR INFORMATION FROM FINAN-  
14 CIAL INSTITUTIONS.—Section 1114(a)(5)(A) of the  
15 Right to Financial Privacy Act of 1978 (12 U.S.C.  
16 3414(a)(5)(A)), as amended by subsection (a)(2), is  
17 amended by—

18 (A) redesignating “Financial institutions”  
19 and everything that follows as clause (i); and

20 (B) adding after clause (i) the following  
21 new clauses:

22 “(ii) A request under this subsection shall  
23 not—

24 “(I) contain any requirement which would  
25 be held to be unreasonable if contained in a

1 subpoena duces tecum issued by a court of the  
2 United States in aid of a grand jury investiga-  
3 tion of espionage or international terrorism; or

4 “(II) require the production of any docu-  
5 mentary evidence which would be privileged  
6 from disclosure if demanded by a subpoena  
7 duces tecum issued by a court of the United  
8 States in aid of a grand jury investigation of es-  
9 pionage or international terrorism.

10 “(iii) A request under this subsection must pro-  
11 vide notice of the recipient’s right to file a petition  
12 under subparagraph (E) of this paragraph and ex-  
13 plain the procedures for doing so.”.

14 (3) REQUEST FOR INFORMATION FROM CON-  
15 SUMER REPORTING AGENCIES.—Section 625 of the  
16 Fair Credit Reporting Act (15 U.S.C. 1681u) is  
17 amended by adding at the end the following:

18 “(n) LIMITATION.—

19 “(1) A request under this section shall not—

20 “(A) contain any requirement which would  
21 be held to be unreasonable if contained in a  
22 subpoena duces tecum issued by a court of the  
23 United States in aid of a grand jury investiga-  
24 tion of espionage or international terrorism; or

1           “(B) require the production of any docu-  
2           mentary evidence which would be privileged  
3           from disclosure if demanded by a subpoena  
4           duces tecum issued by a court of the United  
5           States in aid of a grand jury investigation of es-  
6           pionage or international terrorism.

7           “(2) A request under this section must provide  
8           notice of the recipient’s right to file a petition under  
9           subsection (o) and explain the procedures for doing  
10          so.”.

11           (4) REQUEST FOR INFORMATION FROM CON-  
12          SUMER REPORTING AGENCIES BY GOVERNMENTAL  
13          AGENCIES.—Section 626(b) of the Fair Credit Re-  
14          porting Act (15 U.S.C. 1681v(b)) is amended by—

15           (A) redesignating “The certification de-  
16          scribed” and all that follows as paragraph (1);  
17          and

18           (B) adding after paragraph (1) the fol-  
19          lowing new paragraphs:

20           “(2) A request under this subsection shall  
21          not—

22           “(A) contain any requirement which would  
23          be held to be unreasonable if contained in a  
24          subpoena duces tecum issued by a court of the

1 United States in aid of a grand jury investiga-  
2 tion of espionage or international terrorism; or

3 “(B) require the production of any docu-  
4 mentary evidence which would be privileged  
5 from disclosure if demanded by a subpoena  
6 duces tecum issued by a court of the United  
7 States in aid of a grand jury investigation of es-  
8 pionage or international terrorism.

9 “(3) A request under this subsection must pro-  
10 vide notice of the recipient’s right to file a petition  
11 under subsection (f) and explain the procedures for  
12 doing so.”.

13 (c) NONDISCLOSURE.—

14 (1) IN GENERAL.—Section 2709(e) of title 18,  
15 United States Code, is amended to read as follows:

16 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

17 “(1) IN GENERAL.—No wire or electronic com-  
18 munication service provider, or officer, employee, or  
19 agent thereof, shall disclose to any person that the  
20 Federal Bureau of Investigation has sought or ob-  
21 tained access to information or records under this  
22 section for 90 days after receipt of such request  
23 from the Bureau.

24 “(2) EXCEPTION.—A wire or electronic commu-  
25 nication service provider, or officer, employee, or

1 agent thereof, who receives an order under this sub-  
2 section may disclose that the Federal Bureau of In-  
3 vestigation has sought or obtained access to infor-  
4 mation or records under this section to—

5 “(A) those persons to whom disclosure is  
6 necessary in order to comply with an order  
7 under this section; or

8 “(B) an attorney in order to obtain legal  
9 advice regarding such order.

10 “(3) EXTENSION.—The Director of the Federal  
11 Bureau of Investigation, or the Director’s designee  
12 in a position not lower than Deputy Assistant Direc-  
13 tor at Bureau headquarters or a Special Agent in  
14 Charge of a Bureau field office designated by the  
15 Director, may apply for an order prohibiting disclo-  
16 sure that the Federal Bureau of Investigation has  
17 sought or obtained access to information or records  
18 under this section for an additional 180 days.

19 “(4) JURISDICTION.—An application for an  
20 order pursuant to this subsection shall be filed in  
21 the district court of the United States in any district  
22 within which the authorized investigation that is the  
23 basis for a request pursuant to this section is being  
24 conducted.

1           “(5) APPLICATION CONTENTS.—An application  
2 for an order pursuant to this subsection must state  
3 specific and articulable facts giving the applicant  
4 reason to believe that disclosure that the Federal  
5 Bureau of Investigation has sought or obtained ac-  
6 cess to information or records under this section will  
7 result in—

8           “(A) endangering the life or physical safety  
9 of any person;

10           “(B) flight from prosecution;

11           “(C) destruction of or tampering with evi-  
12 dence;

13           “(D) intimidation of potential witnesses; or

14           “(E) otherwise seriously endangering the  
15 national security of the United States by alert-  
16 ing a target, a target’s associates, or the for-  
17 eign power of which the target is an agent, of  
18 the Government’s interest in the target.

19           “(6) STANDARD.—The court may issue an ex  
20 parte order pursuant to this subsection if the court  
21 determines there is reason to believe that disclosure  
22 that the Federal Bureau of Investigation has sought  
23 or obtained access to information or records under  
24 this section will result in—

1           “(A) endangering the life or physical safety  
2 of any person;

3           “(B) flight from prosecution;

4           “(C) destruction of or tampering with evi-  
5 dence;

6           “(D) intimidation of potential witnesses; or

7           “(E) otherwise seriously endangering the  
8 national security of the United States by alert-  
9 ing a target, a target’s associates, or the for-  
10 eign power of which the target is an agent, of  
11 the Government’s interest in the target.

12           “(7) RENEWAL.—An order under this sub-  
13 section may be renewed for additional periods of up  
14 to 180 days upon another application meeting the  
15 requirements of paragraph (5) and a determination  
16 by the court that the circumstances described in  
17 paragraph (6) continue to exist.”.

18           (2) FINANCIAL INSTITUTIONS.—Section  
19 1114(a)(5)(D) of the Right to Financial Privacy Act  
20 of 1978 (12 U.S.C. 3414(a)(5)(D)) is amended to  
21 read as follows:

22           “(D) NONDISCLOSURE.—

23           “(i) IN GENERAL.—No financial institution, or  
24 officer, employee, or agent of such institution, shall  
25 disclose to any person that the Federal Bureau of

1 Investigation has sought or obtained access to a cus-  
2 tomer's or entity's financial records under this para-  
3 graph for 90 days after receipt of such request from  
4 the Bureau.

5 “(ii) EXCEPTION.—A financial institution, or  
6 officer, employee, or agent of such institution, who  
7 receives an order under this subparagraph may dis-  
8 close that the Federal Bureau of Investigation has  
9 sought or obtained access to a customer's or entity's  
10 financial records to—

11 “(I) those persons to whom disclosure is  
12 necessary in order to comply with a request  
13 under this subparagraph; or

14 “(II) an attorney in order to obtain legal  
15 advice regarding such request.

16 “(iii) EXTENSION.—The Director of the Fed-  
17 eral Bureau of Investigation, or the Director's des-  
18 ignee in a position not lower than Deputy Assistant  
19 Director at Bureau headquarters or a Special Agent  
20 in Charge of a Bureau field office designated by the  
21 Director, may apply for an order prohibiting disclo-  
22 sure that the Federal Bureau of Investigation has  
23 sought or obtained access to a customer's or entity's  
24 financial records under this paragraph for an addi-  
25 tional 180 days.



1           “(iv) JURISDICTION.—An application for an  
2 order pursuant to this subsection shall be filed in  
3 the district court of the United States in any district  
4 within which the authorized investigation that is the  
5 basis for a request pursuant to this paragraph is  
6 being conducted.

7           “(v) APPLICATION CONTENTS.—An application  
8 for an order pursuant to this subparagraph must  
9 state specific and articulable facts giving the appli-  
10 cant reason to believe that disclosure that the Fed-  
11 eral Bureau of Investigation has sought or obtained  
12 access to a customer’s or entity’s financial records  
13 under this paragraph will result in—

14                   “(I) endangering the life or physical safety  
15 of any person;

16                   “(II) flight from prosecution;

17                   “(III) destruction of or tampering with evi-  
18 dence;

19                   “(IV) intimidation of potential witnesses;  
20 or

21                   “(V) otherwise seriously endangering the  
22 national security of the United States by alert-  
23 ing a target, a target’s associates, or the for-  
24 eign power of which the target is an agent, of  
25 the Government’s interest in the target.

1           “(vi) STANDARD.—The court may issue an ex  
2       parte order pursuant to this subparagraph if the  
3       court determines there is reason to believe that dis-  
4       closure that the Federal Bureau of Investigation has  
5       sought or obtained access to a customer’s or entity’s  
6       financial records under this paragraph will result  
7       in—

8                   “(I) endangering the life or physical safety  
9       of any person;

10                   “(II) flight from prosecution;

11                   “(III) destruction of or tampering with evi-  
12       dence;

13                   “(IV) intimidation of potential witnesses;  
14       or

15                   “(V) otherwise seriously endangering the  
16       national security of the United States by alert-  
17       ing a target, a target’s associates, or the for-  
18       eign power of which the target is an agent, of  
19       the Government’s interest in the target.

20           “(vii) RENEWAL.—An order under this sub-  
21       paragraph may be renewed for additional periods of  
22       up to 180 days upon another application meeting  
23       the requirements of clause (v) and a determination  
24       by the court that the circumstances described in  
25       clause (vi) of this subparagraph continue to exist.”.

1           (3) CONSUMER REPORTING AGENCIES.—Section  
2           625(d) of the Fair Credit Reporting Act (15 U.S.C.  
3           1681u(d)) is amended to read as follows:

4           “(d) CONFIDENTIALITY.—

5           “(1) IN GENERAL.—No consumer reporting  
6           agency, or officer, employee, or agent of a consumer  
7           reporting agency, shall disclose to any person that  
8           the Federal Bureau of Investigation has sought or  
9           obtained the identity of financial institutions or a  
10          consumer report respecting any consumer under  
11          subsection (a), (b), or (c) for 90 days after receipt  
12          of a request or order under this section, and no con-  
13          sumer reporting agency, or officer, employee, or  
14          agent of a consumer reporting agency, shall include  
15          in any consumer report any information that would  
16          indicate that the Federal Bureau of Investigation  
17          has sought or obtained such information or a con-  
18          sumer report.

19          “(2) EXCEPTION.—A consumer reporting agen-  
20          cy or officer, employee, or agent of a consumer re-  
21          porting agency who receives an order under this sub-  
22          section may disclose that the Federal Bureau of In-  
23          vestigation has sought or obtained the identity of fi-  
24          nancial institutions or a consumer report respecting  
25          any consumer to—

1           “(A) those officers, employees, or agents of  
2           a consumer reporting agency necessary to fulfill  
3           the requirement to disclose information to the  
4           Federal Bureau of Investigation under this sec-  
5           tion; or

6           “(B) an attorney in order to obtain legal  
7           advice regarding such requirement.

8           “(3) EXTENSION.—The Director of the Federal  
9           Bureau of Investigation, or the Director’s designee  
10          in a position not lower than Deputy Assistant Direc-  
11          tor at Bureau headquarters or a Special Agent in  
12          Charge of a Bureau field office designated by the  
13          Director, may apply for an order prohibiting disclo-  
14          sure that the Federal Bureau of Investigation has  
15          sought or obtained access to information or records  
16          under subsection (a), (b), or (c) for an additional  
17          180 days.

18          “(4) JURISDICTION.—An application for an  
19          order pursuant to this subsection shall be filed in  
20          the district court of the United States in any district  
21          within which the authorized investigation that is the  
22          basis for a request or order pursuant to this section  
23          is being conducted.

24          “(5) APPLICATION CONTENTS.—An application  
25          for an order pursuant to this subsection must state

1 specific and articulable facts giving the applicant  
2 reason to believe that disclosure that the Federal  
3 Bureau of Investigation has sought or obtained the  
4 identity of financial institutions or a consumer re-  
5 port respecting any consumer under subsection (a),  
6 (b), or (c) will result in—

7 “(A) endangering the life or physical safety  
8 of any person;

9 “(B) flight from prosecution;

10 “(C) destruction of or tampering with evi-  
11 dence;

12 “(D) intimidation of potential witnesses; or

13 “(E) otherwise seriously endangering the  
14 national security of the United States by alert-  
15 ing a target, a target’s associates, or the for-  
16 eign power of which the target is an agent, of  
17 the Government’s interest in the target.

18 “(6) STANDARD.—The court may issue an ex  
19 parte order pursuant to this subsection if the court  
20 determines there is reason to believe that disclosure  
21 that the Federal Bureau of Investigation has sought  
22 or obtained the identity of financial institutions or a  
23 consumer report respecting any consumer under  
24 subsection (a), (b), or (c) will result in—

1           “(A) endangering the life or physical safety  
2 of any person;

3           “(B) flight from prosecution;

4           “(C) destruction of or tampering with evi-  
5 dence;

6           “(D) intimidation of potential witnesses; or

7           “(E) otherwise seriously endangering the  
8 national security of the United States by alert-  
9 ing a target, a target’s associates, or the for-  
10 eign power of which the target is an agent, of  
11 the Government’s interest in the target.

12           “(7) RENEWAL.—An order under this sub-  
13 section may be renewed for additional periods of up  
14 to 180 days upon another application meeting the  
15 requirements of paragraph (5) and a determination  
16 by the court that the circumstances described in  
17 paragraph (6) continue to exist.”.

18           (4) CONSUMER REPORTING AGENCIES REPORT-  
19 ING TO GOVERNMENTAL AGENCIES.—Section 626(c)  
20 of the Fair Credit Reporting Act (15 U.S.C.  
21 1681v(c)) is amended to read as follows:

22           “(c) CONFIDENTIALITY.—

23           “(1) IN GENERAL.—No consumer reporting  
24 agency, or officer, employee, or agent of a consumer  
25 reporting agency, shall disclose to any person or

1 specify in any credit report that a government agen-  
2 cy has sought or obtained access to information  
3 under subsection (a) for 90 days after receipt of the  
4 request for such information.

5 “(2) EXCEPTION.—A consumer reporting agen-  
6 cy, or officer, employee, or agent of a consumer re-  
7 porting agency, may disclose that a government  
8 agency has sought or obtained access to information  
9 under subsection (a) to—

10 “(A) those officers, employees, or agents of  
11 a consumer reporting agency necessary to fulfill  
12 the requirement to disclose information to the  
13 Federal Bureau of Investigation under this sec-  
14 tion; or

15 “(B) an attorney in order to obtain legal  
16 advice regarding such requirement.

17 “(3) EXTENSION.—The supervisory official or  
18 officer who signs a certification under subsection (b)  
19 may apply in any district court of the United States  
20 for an order prohibiting disclosure that a govern-  
21 ment agency has sought or obtained access to infor-  
22 mation under subsection (a) for an additional 180  
23 days.

24 “(4) APPLICATION CONTENTS.—An application  
25 for an order pursuant to this subsection must state

1 specific and articulable facts giving the applicant  
2 reason to believe that disclosure that a government  
3 agency has sought or obtained access to information  
4 under subsection (a) will result in—

5 “(A) endangering the life or physical safety  
6 of any person;

7 “(B) flight from prosecution;

8 “(C) destruction of or tampering with evi-  
9 dence;

10 “(D) intimidation of potential witnesses; or

11 “(E) otherwise seriously endangering the  
12 national security of the United States by alert-  
13 ing a target, a target’s associates, or the for-  
14 eign power of which the target is an agent, of  
15 the Government’s interest in the target.

16 “(5) STANDARD.—The court may issue an ex  
17 parte order pursuant to this subsection if the court  
18 determines there is reason to believe that disclosure  
19 that a government agency has sought or obtained  
20 access to information under subsection (a) will result  
21 in—

22 “(A) endangering the life or physical safety  
23 of any person;

24 “(B) flight from prosecution;



1           “(C) destruction of or tampering with evi-  
2           dence;

3           “(D) intimidation of potential witnesses; or

4           “(E) otherwise seriously endangering the  
5           national security of the United States by alert-  
6           ing a target, a target’s associates, or the for-  
7           eign power of which the target is an agent, of  
8           the Government’s interest in the target.

9           “(6) RENEWAL.—An order under this sub-  
10          section may be renewed for additional periods of up  
11          to 180 days upon another application meeting the  
12          requirements of paragraph (4) and a determination  
13          by the court that the circumstances described in  
14          paragraph (5) continue to exist.”.

15          (d) JUDICIAL REVIEW.—

16                 (1) IN GENERAL.—Section 2709 of title 18,  
17          United States Code, is amended by—

18                         (A) redesignating subsection (e) as sub-  
19                         section (g); and

20                         (B) inserting after subsection (d) the fol-  
21                         lowing:

22          “(e) JUDICIAL REVIEW.—

23                         “(1) REQUEST.—Not later than 20 days after  
24                         any person receives a request pursuant to subsection  
25                         (b), or at any time before the return date specified

1 in the request, whichever period is shorter, such per-  
2 son may file, in the district court of the United  
3 States for the judicial district within which such per-  
4 son resides, is found, or transacts business, a peti-  
5 tion for such court to modify or set aside such re-  
6 quest. The time allowed for compliance with the re-  
7 quest in whole or in part as deemed proper and or-  
8 dered by the court shall not run during the pendency  
9 of such petition in the court. Such petition shall  
10 specify each ground upon which the petitioner relies  
11 in seeking relief, and may be based upon any failure  
12 of such request to comply with the provisions of this  
13 section or upon any constitutional or other legal  
14 right or privilege of such person.

15 “(2) NONDISCLOSURE.—

16 “(A) IN GENERAL.—A person prohibited  
17 from disclosing information under subsection  
18 (c) may file, in the district court of the United  
19 States for the judicial district within which such  
20 person resides, is found, or transacts business,  
21 a petition for the court to set aside the non-  
22 disclosure requirement. Such petition shall  
23 specify each ground upon which the petitioner  
24 relies in seeking relief, and may be based upon  
25 any failure of the nondisclosure requirement to

1           comply with the provisions of this section or  
2           upon any constitutional or other legal right or  
3           privilege of such person.

4           “(B) STANDARD.—The court shall set  
5           aside the nondisclosure requirement unless the  
6           court determines that there is a reason to be-  
7           lieve that disclosure of the request under sub-  
8           section (b) will result in—

9                   “(i) endangering the life or physical  
10                   safety of any person;

11                   “(ii) flight from prosecution;

12                   “(iii) destruction of or tampering with  
13                   evidence;

14                   “(iv) intimidation of potential wit-  
15                   nesses; or

16                   “(v) otherwise seriously endangering  
17                   the national security of the United States  
18                   by alerting a target, a target’s associates,  
19                   or the foreign power of which the target is  
20                   an agent, of the Government’s interest in  
21                   the target.

22           “(3) DISCLOSURE.—In making determinations  
23           under this subsection, the court shall disclose to the  
24           petitioner, the counsel of the petitioner, or both,  
25           under the procedures and standards provided in the

1 Classified Information Procedures Act (18 U.S.C.  
2 App.), portions of the application, order, or other re-  
3 lated materials unless the court finds that such dis-  
4 closure would not assist in determining any legal or  
5 factual issue pertinent to the case.”.

6 (2) FINANCIAL RECORD REQUESTS.—Section  
7 1114(a)(5) of the Right to Financial Privacy Act of  
8 1978 (12 U.S.C. 3414(a)(5)), as amended by sub-  
9 sections (a), (b), and (c) of this section, is amended  
10 by adding at the end the following:

11 “(E) JUDICIAL REVIEW.—

12 “(i) IN GENERAL.—Not later than 20 days  
13 after any person receives a request pursuant to sub-  
14 paragraph (A), or at any time before the return date  
15 specified in the request, whichever period is shorter,  
16 such person may file, in the district court of the  
17 United States for the judicial district within which  
18 such person resides, is found, or transacts business,  
19 a petition for the court to modify or set aside the  
20 request. The time allowed for compliance with the  
21 request in whole or in part as deemed proper and or-  
22 dered by the court shall not run during the pendency  
23 of the petition in the court. The petition shall speci-  
24 fy each ground upon which the petitioner relies in  
25 seeking relief, and may be based upon any failure of

1 the request to comply with the provisions of this  
2 paragraph or upon any constitutional or other legal  
3 right or privilege of the petitioner.

4 “(ii) NONDISCLOSURE.—

5 “(I) IN GENERAL.—A person prohibited  
6 from disclosing information under subpara-  
7 graph (D) may file, in the district court of the  
8 United States for the judicial district within  
9 which the recipient resides, is found, or trans-  
10 acts business, a petition for the court to set  
11 aside the nondisclosure requirement. The peti-  
12 tion shall specify each ground upon which the  
13 petitioner relies in seeking the relief, and may  
14 be based upon any failure of the nondisclosure  
15 requirement to comply with the provisions of  
16 this section or upon any constitutional or other  
17 legal right or privilege of the petitioner.

18 “(II) STANDARD.—The court shall set  
19 aside the nondisclosure requirement unless the  
20 court determines that there is a reason to be-  
21 lieve that disclosure of the request under sub-  
22 paragraph (A) will result in—

23 “(aa) endangering the life or physical  
24 safety of any person;

25 “(bb) flight from prosecution;

1                   “(cc) destruction of or tampering with  
2                   evidence;

3                   “(dd) intimidation of potential wit-  
4                   nesses; or

5                   “(ee) otherwise seriously endangering  
6                   the national security of the United States  
7                   by alerting a target, a target’s associates,  
8                   or the foreign power of which the target is  
9                   an agent, of the Government’s interest in  
10                  the target.

11                  “(iii) DISCLOSURE.—In making determinations  
12                  under this subparagraph, the court shall disclose to  
13                  the petitioner, the counsel of the petitioner, or both,  
14                  under the procedures and standards provided in the  
15                  Classified Information Procedures Act (18 U.S.C.  
16                  App.), portions of the application, order, or other re-  
17                  lated materials unless the court finds that such dis-  
18                  closure would not assist in determining any legal or  
19                  factual issue pertinent to the case.”.

20                  (3) CONSUMER REPORT REQUESTS.—Section  
21                  625 of the Fair Credit Reporting Act (15 U.S.C.  
22                  1681u), as amended by subsection (b) of this sec-  
23                  tion, is amended by adding at the end the following:

24                  “(o) JUDICIAL REVIEW.—

1           “(1) IN GENERAL.—Not later than 20 days  
2 after any person receives a request or order pursu-  
3 ant to subsection (a), (b), or (c), or at any time be-  
4 fore the return date specified in the request or  
5 order, whichever period is shorter, such person may  
6 file, in the district court of the United States for the  
7 judicial district within which such person resides, is  
8 found, or transacts business, a petition for the court  
9 to modify or set aside the request or order. The time  
10 allowed for compliance with the request or order in  
11 whole or in part as deemed proper and ordered by  
12 the court shall not run during the pendency of the  
13 petition in the court. The petition shall specify each  
14 ground upon which the petitioner relies in seeking  
15 the relief, and may be based upon any failure of the  
16 request or order to comply with the provisions of  
17 this section or upon any constitutional or other legal  
18 right or privilege of the petitioner.

19           “(2) NONDISCLOSURE.—

20           “(A) IN GENERAL.—A person prohibited  
21 from disclosing information under subsection  
22 (d) may file, in the district court of the United  
23 States for the judicial district within which the  
24 recipient resides, is found, or transacts busi-  
25 ness, a petition for the court to set aside the

1 nondisclosure requirement. The petition shall  
2 specify each ground upon which the petitioner  
3 relies in seeking the relief, and may be based  
4 upon any failure of the nondisclosure require-  
5 ment to comply with the provisions of this sec-  
6 tion or upon any constitutional or other legal  
7 right or privilege of the petitioner.

8 “(B) STANDARD.—The court shall set  
9 aside the nondisclosure requirement unless the  
10 court determines that there is a reason to be-  
11 lieve that disclosure of request or order under  
12 subsection (a), (b), or (c) will result in—

13 “(i) endangering the life or physical  
14 safety of any person;

15 “(ii) flight from prosecution;

16 “(iii) destruction of or tampering with  
17 evidence;

18 “(iv) intimidation of potential wit-  
19 nesses; or

20 “(v) otherwise seriously endangering  
21 the national security of the United States  
22 by alerting a target, a target’s associates,  
23 or the foreign power of which the target is  
24 an agent, of the Government’s interest in  
25 the target.



1           “(3) DISCLOSURE.—In making determinations  
2           under this subsection, the court shall disclose to the  
3           petitioner, the counsel of the petitioner, or both,  
4           under the procedures and standards provided in the  
5           Classified Information Procedures Act (18 U.S.C.  
6           App.), portions of the application, order, or other re-  
7           lated materials unless the court finds that such dis-  
8           closure would not assist in determining any legal or  
9           factual issue pertinent to the case.”.

10           (4) CONSUMER REPORT REQUESTS BY GOVERN-  
11           MENTAL AGENCIES.—Section 626 of the Fair Credit  
12           Reporting Act (15 U.S.C. 1681v) is amended by  
13           adding at the end the following:

14           “(f) JUDICIAL REVIEW.—

15           “(1) IN GENERAL.—Not later than 20 days  
16           after any person receives a request pursuant to sub-  
17           section (a), or at any time before the return date  
18           specified in the request, whichever period is shorter,  
19           such person may file, in the district court of the  
20           United States for the judicial district within which  
21           such person resides, is found, or transacts business,  
22           a petition for the court to modify or set aside the  
23           request. The time allowed for compliance with the  
24           request in whole or in part as deemed proper and or-  
25           dered by the court shall not run during the pendency

1 of the petition in the court. The petition shall speci-  
2 fy each ground upon which the petitioner relies in  
3 seeking the relief, and may be based upon any fail-  
4 ure of the request to comply with the provisions of  
5 this section or upon any constitutional or other legal  
6 right or privilege of the petitioner.

7 “(2) NONDISCLOSURE.—

8 “(A) IN GENERAL.—A person prohibited  
9 from disclosing information under subsection  
10 (c) may file, in the district court of the United  
11 States for the judicial district within which the  
12 recipient resides, is found, or transacts busi-  
13 ness, a petition for the court to set aside the  
14 nondisclosure requirement. The petition shall  
15 specify each ground upon which the petitioner  
16 relies in seeking the relief, and may be based  
17 upon any failure of the nondisclosure require-  
18 ment to comply with the provisions of this sec-  
19 tion or upon any constitutional or other legal  
20 right or privilege of the petitioner.

21 “(B) STANDARD.—The court shall set  
22 aside the nondisclosure requirement unless the  
23 court determines that there is a reason to be-  
24 lieve that disclosure of the request under sub-  
25 section (a) will result in—

1                   “(i) endangering the life or physical  
2                   safety of any person;

3                   “(ii) flight from prosecution;

4                   “(iii) destruction of or tampering with  
5                   evidence;

6                   “(iv) intimidation of potential wit-  
7                   nesses; or

8                   “(v) otherwise seriously endangering  
9                   the national security of the United States  
10                  by alerting a target, a target’s associates,  
11                  or the foreign power of which the target is  
12                  an agent, of the Government’s interest in  
13                  the target.

14                  “(3) DISCLOSURE.—In making determinations  
15                  under this subsection, the court shall disclose to the  
16                  petitioner, the counsel of the petitioner, or both,  
17                  under the procedures and standards provided in the  
18                  Classified Information Procedures Act (18 U.S.C.  
19                  App.), portions of the application, order, or other re-  
20                  lated materials unless the court finds that such dis-  
21                  closure would not assist in determining any legal or  
22                  factual issue pertinent to the case.”.

23                  (e) USE OF INFORMATION.—

24                  (1) IN GENERAL.—Section 2709 of title 18,  
25                  United States Code, as amended by subsection (d),

1 is amended by inserting after subsection (e) the fol-  
2 lowing:

3 “(f) USE OF INFORMATION.—

4 “(1) IN GENERAL.—

5 “(A) CONSENT.—Any information ac-  
6 quired from a request pursuant to this section  
7 concerning any United States person may be  
8 used and disclosed by Federal officers and em-  
9 ployees without the consent of the United  
10 States person only in accordance with the provi-  
11 sions of this subsection.

12 “(B) LAWFUL PURPOSE.—No information  
13 acquired from an order pursuant to this section  
14 may be used or disclosed by Federal officers or  
15 employees except for lawful purposes.

16 “(2) DISCLOSURE FOR LAW ENFORCEMENT  
17 PURPOSES.—No information acquired pursuant to  
18 this section shall be disclosed for law enforcement  
19 purposes unless such disclosure is accompanied by a  
20 statement that such information, or any information  
21 derived therefrom, may only be used in a criminal  
22 proceeding with the advance authorization of the At-  
23 torney General.

24 “(3) NOTIFICATION OF INTENDED DISCLOSURE  
25 BY THE UNITED STATES.—Whenever the United

1 States intends to enter into evidence or otherwise  
2 use or disclose in any trial, hearing, or other pro-  
3 ceeding in or before any court, department, officer,  
4 agency, regulatory body, or other authority of the  
5 United States against an aggrieved person any infor-  
6 mation obtained or derived from a request pursuant  
7 to this section, the United States shall, before the  
8 trial, hearing, or other proceeding or at a reasonable  
9 time before an effort to so disclose or so use this in-  
10 formation or submit it in evidence, notify the ag-  
11 grieved person and the court or other authority in  
12 which the information is to be disclosed or used that  
13 the United States intends to so disclose or so use  
14 such information.

15 “(4) NOTIFICATION OF INTENDED DISCLOSURE  
16 BY STATE OR POLITICAL SUBDIVISION.—Whenever  
17 any State or political subdivision thereof intends to  
18 enter into evidence or otherwise use or disclose in  
19 any trial, hearing, or other proceeding in or before  
20 any court, department, officer, agency, regulatory  
21 body, or other authority of the State or political sub-  
22 division thereof against an aggrieved person any in-  
23 formation obtained or derived from a request pursu-  
24 ant to this section, the State or political subdivision  
25 thereof shall notify the aggrieved person, the court

1 or other authority in which the information is to be  
2 disclosed or used, and the Attorney General that the  
3 State or political subdivision thereof intends to so  
4 disclose or so use such information.

5 “(5) MOTION TO SUPPRESS.—

6 “(A) IN GENERAL.—Any aggrieved person  
7 against whom evidence obtained or derived from  
8 a request pursuant to this section is to be, or  
9 has been, introduced or otherwise used or dis-  
10 closed in any trial, hearing, or other proceeding  
11 in or before any court, department, officer,  
12 agency, regulatory body, or other authority of  
13 the United States, or a State or political sub-  
14 division thereof, may move to suppress the evi-  
15 dence obtained or derived from the request, as  
16 the case may be, on the grounds that—

17 “(i) the information was acquired in  
18 violation of the Constitution or laws of the  
19 United States; or

20 “(ii) the request was not in con-  
21 formity with the requirements of this sec-  
22 tion.

23 “(B) TIMING.—A motion under subpara-  
24 graph (A) shall be made before the trial, hear-  
25 ing, or other proceeding unless there was no op-

1 portunity to make such a motion or the ag-  
2 grievied person concerned was not aware of the  
3 grounds of the motion.

4 “(6) JUDICIAL REVIEW.—

5 “(A) IN GENERAL.—Whenever—

6 “(i) a court or other authority is noti-  
7 fied pursuant to paragraph (3) or (4);

8 “(ii) a motion is made pursuant to  
9 paragraph (5); or

10 “(iii) any motion or request is made  
11 by an aggrieved person pursuant to any  
12 other statute or rule of the United States  
13 or any State before any court or other au-  
14 thority of the United States or any State  
15 to—

16 “(I) discover or obtain materials  
17 relating to a request issued pursuant  
18 to this section; or

19 “(II) discover, obtain, or sup-  
20 press evidence or information obtained  
21 or derived from a request issued pur-  
22 suant to this section;

23 the United States district court or, where the  
24 motion is made before another authority, the  
25 United States district court in the same district

1 as the authority shall, notwithstanding any  
2 other provision of law and if the Attorney Gen-  
3 eral files an affidavit under oath that disclosure  
4 would harm the national security of the United  
5 States, review in camera the materials as may  
6 be necessary to determine whether the request  
7 was lawful.

8 “(B) DISCLOSURE.—In making a deter-  
9 mination under subparagraph (A), unless the  
10 court finds that such disclosure would not assist  
11 in determining any legal or factual issue perti-  
12 nent to the case, the court shall disclose to the  
13 aggrieved person, the counsel of the aggrieved  
14 person, or both, under the procedures and  
15 standards provided in the Classified Informa-  
16 tion Procedures Act (18 U.S.C. App.), portions  
17 of the application, order, or other related mate-  
18 rials, or evidence or information obtained or de-  
19 rived from the order.

20 “(7) EFFECT OF DETERMINATION OF LAWFUL-  
21 NESS.—

22 “(A) UNLAWFUL ORDERS.—If the United  
23 States district court determines pursuant to  
24 paragraph (6) that the request was not in com-  
25 pliance with the Constitution or laws of the



1 United States, the court may, in accordance  
2 with the requirements of law, suppress the evi-  
3 dence which was unlawfully obtained or derived  
4 from the request or otherwise grant the motion  
5 of the aggrieved person.

6 “(B) **LAWFUL ORDERS.**—If the court de-  
7 termines that the request was lawful, it may  
8 deny the motion of the aggrieved person except  
9 to the extent that due process requires dis-  
10 covery or disclosure.

11 “(8) **BINDING FINAL ORDERS.**—Orders grant-  
12 ing motions or requests under paragraph (6), deci-  
13 sions under this section that a request was not law-  
14 ful, and orders of the United States district court  
15 requiring review or granting disclosure of applica-  
16 tions, orders, or other related materials shall be final  
17 orders and binding upon all courts of the United  
18 States and the several States except a United States  
19 court of appeals or the Supreme Court.

20 “(g) **DEFINITIONS.**—As used in this section—

21 “(1) the term ‘agent of a foreign power’ has the  
22 meaning given such term by section 101(b) of the  
23 Foreign Intelligence Surveillance Act of 1978 (50  
24 U.S.C. 1801(b));

1           “(2) the term ‘aggrieved person’ means a per-  
2           son whose name, address, length of service, or local  
3           or long distance toll records were sought or obtained  
4           under this section; and

5           “(3) the term ‘foreign power’ has the meaning  
6           given such term by section 101(a) of the Foreign In-  
7           telligence Surveillance Act of 1978 (50 U.S.C.  
8           1801(a)).”.

9           (2) FINANCIAL RECORDS.—Section 1114 of the  
10          Right to Financial Privacy Act of 1978 (12 U.S.C.  
11          3414) is amended by inserting after subsection (b)  
12          the following:

13          “(c) USE OF INFORMATION.—

14                 “(1) IN GENERAL.—

15                         “(A) CONSENT.—Any information ac-  
16                         quired from a request pursuant to this section  
17                         concerning any United States person may be  
18                         used and disclosed by Federal officers and em-  
19                         ployees without the consent of the United  
20                         States person only in accordance with the provi-  
21                         sions of this subsection.

22                         “(B) LAWFUL PURPOSE.—No information  
23                         acquired from an order pursuant to this section  
24                         may be used or disclosed by Federal officers or  
25                         employees except for lawful purposes.

1           “(2) DISCLOSURE FOR LAW ENFORCEMENT  
2 PURPOSES.—No information acquired pursuant to  
3 this section shall be disclosed for law enforcement  
4 purposes unless the disclosure is accompanied by a  
5 statement that the information, or any information  
6 derived therefrom, may only be used in a criminal  
7 proceeding with the advance authorization of the At-  
8 torney General.

9           “(3) NOTIFICATION OF INTENDED DISCLOSURE  
10 BY THE UNITED STATES.—Whenever the United  
11 States intends to enter into evidence or otherwise  
12 use or disclose in any trial, hearing, or other pro-  
13 ceeding in or before any court, department, officer,  
14 agency, regulatory body, or other authority of the  
15 United States against an aggrieved person any infor-  
16 mation obtained or derived from a request pursuant  
17 to this section, the United States shall, before the  
18 trial, hearing, or other proceeding, or at a reason-  
19 able time before an effort to so disclose or so use  
20 this information or submit it in evidence, notify the  
21 aggrieved person and the court or other authority in  
22 which the information is to be disclosed or used that  
23 the United States intends to so disclose or so use  
24 such information.

1           “(4) NOTIFICATION OF INTENDED DISCLOSURE  
2 BY STATE OR POLITICAL SUBDIVISION.—Whenever  
3 any State or political subdivision thereof intends to  
4 enter into evidence or otherwise use or disclose in  
5 any trial, hearing, or other proceeding in or before  
6 any court, department, officer, agency, regulatory  
7 body, or other authority of the State or political sub-  
8 division thereof against an aggrieved person any in-  
9 formation obtained or derived from a request pursu-  
10 ant to this section, the State or political subdivision  
11 thereof shall notify the aggrieved person, the court  
12 or other authority in which the information is to be  
13 disclosed or used, and the Attorney General that the  
14 State or political subdivision thereof intends to so  
15 disclose or so use such information.

16           “(5) MOTION TO SUPPRESS.—

17           “(A) IN GENERAL.—Any aggrieved person  
18 against whom evidence obtained or derived from  
19 a request pursuant to this section is to be, or  
20 has been, introduced or otherwise used or dis-  
21 closed in any trial, hearing, or other proceeding  
22 in or before any court, department, officer,  
23 agency, regulatory body, or other authority of  
24 the United States, or a State or political sub-  
25 division thereof, may move to suppress the evi-

1           dence obtained or derived from the request, as  
2           the case may be, on the grounds that—

3                   “(i) the information was acquired in  
4                   violation of the Constitution or laws of the  
5                   United States; or

6                   “(ii) the request was not in con-  
7                   formity with the requirements of this sec-  
8                   tion.

9           “(B) TIMING.—A motion to suppress  
10           under subparagraph (A) shall be made before  
11           the trial, hearing, or other proceeding unless  
12           there was no opportunity to make such a mo-  
13           tion or the aggrieved person concerned was not  
14           aware of the grounds of the motion.

15           “(6) JUDICIAL REVIEW.—

16                   “(A) IN GENERAL.—Whenever—

17                   “(i) a court or other authority is noti-  
18                   fied pursuant to paragraph (3) or (4);

19                   “(ii) a motion is made pursuant to  
20                   paragraph (5); or

21                   “(iii) any motion or request is made  
22                   by an aggrieved person pursuant to any  
23                   other statute or rule of the United States  
24                   or any State before any court or other au-

1           thority of the United States or any State  
2           to—

3                   “(I) discover or obtain materials  
4                   relating to a request issued pursuant  
5                   to this section; or

6                   “(II) discover, obtain, or sup-  
7                   press evidence or information obtained  
8                   or derived from a request issued pur-  
9                   suant to this section;

10           the United States district court or, where the  
11           motion is made before another authority, the  
12           United States district court in the same district  
13           as the authority shall, notwithstanding any  
14           other provision of law and if the Attorney Gen-  
15           eral files an affidavit under oath that disclosure  
16           would harm the national security of the United  
17           States, review in camera the materials as may  
18           be necessary to determine whether the request  
19           was lawful.

20                   “(B) DISCLOSURE.—In making a deter-  
21                   mination under subparagraph (A), unless the  
22                   court finds that such disclosure would not assist  
23                   in determining any legal or factual issue perti-  
24                   nent to the case, the court shall disclose to the  
25                   aggrieved person, the counsel of the aggrieved

1 person, or both, under the procedures and  
2 standards provided in the Classified Informa-  
3 tion Procedures Act (18 U.S.C. App.), portions  
4 of the application, order, or other related mate-  
5 rials, or evidence or information obtained or de-  
6 rived from the order.

7 “(7) EFFECT OF DETERMINATION OF LAWFUL-  
8 NESS.—

9 “(A) IN GENERAL.—If the United States  
10 district court determines pursuant to paragraph  
11 (6) that the request was not in compliance with  
12 the Constitution or laws of the United States,  
13 the court may, in accordance with the require-  
14 ments of law, suppress the evidence which was  
15 unlawfully obtained or derived from the request  
16 or otherwise grant the motion of the aggrieved  
17 person.

18 “(B) EXCEPTION.—If the court determines  
19 that the request was lawful, it may deny the  
20 motion of the aggrieved person except to the ex-  
21 tent that due process requires discovery or dis-  
22 closure.

23 “(8) BINDING FINAL ORDERS.—Orders grant-  
24 ing motions or requests under paragraph (6), deci-  
25 sions under this section that a request was not law-

1 ful, and orders of the United States district court  
2 requiring review or granting disclosure of applica-  
3 tions, orders, or other related materials shall be final  
4 orders and binding upon all courts of the United  
5 States and the several States except a United States  
6 Court of Appeals or the Supreme Court.”.

7 (3) CONSUMER REPORTS.—Section 625 of the  
8 Fair Credit Reporting Act (15 U.S.C. 1681u), as  
9 amended by subsections (b) and (d), is amended by  
10 adding at the end the following:

11 “(p) USE OF INFORMATION.—

12 “(1) IN GENERAL.—

13 “(A) CONSENT.—Any information ac-  
14 quired from a request or an order pursuant to  
15 this section concerning any United States per-  
16 son may be used and disclosed by Federal offi-  
17 cers and employees without the consent of the  
18 United States person only in accordance with  
19 the provisions of this subsection.

20 “(B) LAWFUL PURPOSE.—No information  
21 acquired from an order pursuant to this section  
22 may be used or disclosed by Federal officers or  
23 employees except for lawful purposes.

24 “(2) DISCLOSURE FOR LAW ENFORCEMENT  
25 PURPOSES.—No information acquired pursuant to



1 this section shall be disclosed for law enforcement  
2 purposes unless the disclosure is accompanied by a  
3 statement that the information, or any information  
4 derived therefrom, may only be used in a criminal  
5 proceeding with the advance authorization of the At-  
6 torney General.

7 “(3) NOTIFICATION OF INTENDED DISCLOSURE  
8 BY THE UNITED STATES.—Whenever the United  
9 States intends to enter into evidence or otherwise  
10 use or disclose in any trial, hearing, or other pro-  
11 ceeding in or before any court, department, officer,  
12 agency, regulatory body, or other authority of the  
13 United States against an aggrieved person any infor-  
14 mation obtained or derived from a request or an  
15 order pursuant to this section, the United States  
16 shall, before the trial, hearing, or other proceeding,  
17 or at a reasonable time before an effort to so dis-  
18 close or so use this information or submit it in evi-  
19 dence, notify the aggrieved person and the court or  
20 other authority in which the information is to be dis-  
21 closed or used that the United States intends to so  
22 disclose or so use such information.

23 “(4) NOTIFICATION OF INTENDED DISCLOSURE  
24 BY STATE OR POLITICAL SUBDIVISION.—Whenever  
25 any State or political subdivision thereof intends to

1 enter into evidence or otherwise use or disclose in  
2 any trial, hearing, or other proceeding in or before  
3 any court, department, officer, agency, regulatory  
4 body, or other authority of the State or political sub-  
5 division thereof against an aggrieved person any in-  
6 formation obtained or derived from a request or an  
7 order pursuant to this section, the State or political  
8 subdivision thereof shall notify the aggrieved person,  
9 the court or other authority in which the informa-  
10 tion is to be disclosed or used, and the Attorney  
11 General that the State or political subdivision there-  
12 of intends to so disclose or so use such information.

13 “(5) MOTION TO SUPPRESS.—

14 “(A) IN GENERAL.—Any aggrieved person  
15 against whom evidence obtained or derived from  
16 a request or an order pursuant to this section  
17 is to be, or has been, introduced or otherwise  
18 used or disclosed in any trial, hearing, or other  
19 proceeding in or before any court, department,  
20 officer, agency, regulatory body, or other au-  
21 thority of the United States, or a State or polit-  
22 ical subdivision thereof, may move to suppress  
23 the evidence obtained or derived from the re-  
24 quest or the order, as the case may be, on the  
25 grounds that—

1           “(i) the information was acquired in  
2 violation of the Constitution or laws of the  
3 United States; or

4           “(ii) the request or the order was not  
5 in conformity with the requirements of this  
6 section.

7           “(B) TIMING.—A motion to suppress  
8 under subparagraph (A) shall be made before  
9 the trial, hearing, or other proceeding unless  
10 there was no opportunity to make such a mo-  
11 tion or the aggrieved person concerned was not  
12 aware of the grounds of the motion.

13           “(6) JUDICIAL REVIEW.—

14           “(A) IN GENERAL.—Whenever—

15           “(i) a court or other authority is noti-  
16 fied pursuant to paragraph (3) or (4);

17           “(ii) a motion is made pursuant to  
18 paragraph (5); or

19           “(iii) any motion or request is made  
20 by an aggrieved person pursuant to any  
21 other statute or rule of the United States  
22 or any State before any court or other au-  
23 thority of the United States or any State  
24 to—

1                   “(I) discover or obtain materials  
2                   relating to a request or an order  
3                   issued pursuant to this section; or

4                   “(II) discover, obtain, or sup-  
5                   press evidence or information obtained  
6                   or derived from a request or an order  
7                   issued pursuant to this section;

8                   the United States district court or, where the  
9                   motion is made before another authority, the  
10                  United States district court in the same district  
11                  as the authority shall, notwithstanding any  
12                  other provision of law and if the Attorney Gen-  
13                  eral files an affidavit under oath that disclosure  
14                  would harm the national security of the United  
15                  States, review in camera the materials as may  
16                  be necessary to determine whether the request  
17                  or the order was lawful

18                  “(B) DISCLOSURE.—In making a deter-  
19                  mination under subparagraph (A), unless the  
20                  court finds that such disclosure would not assist  
21                  in determining any legal or factual issue perti-  
22                  nent to the case, the court shall disclose to the  
23                  aggrieved person, the counsel of the aggrieved  
24                  person, or both, under the procedures and  
25                  standards provided in the Classified Informa-

1           tion Procedures Act (18 U.S.C. App.), portions  
2           of the application, order, or other related mate-  
3           rials, or evidence or information obtained or de-  
4           rived from the order.

5           “(7) EFFECT OF DETERMINATION OF LAWFUL-  
6           NESS.—

7                   “(A) IN GENERAL.—If the United States  
8           district court determines pursuant to paragraph  
9           (6) that the request or the order was not in  
10          compliance with the Constitution or laws of the  
11          United States, the court may, in accordance  
12          with the requirements of law, suppress the evi-  
13          dence which was unlawfully obtained or derived  
14          from the request or the order or otherwise  
15          grant the motion of the aggrieved person.

16                   “(B) EXCEPTION.—If the court determines  
17          that the request or the order was lawful, it may  
18          deny the motion of the aggrieved person except  
19          to the extent that due process requires dis-  
20          covery or disclosure.

21                   “(8) BINDING FINAL ORDERS.—Orders grant-  
22          ing motions or requests under paragraph (6), deci-  
23          sions under this section that a request was not law-  
24          ful, and orders of the United States district court  
25          requiring review or granting disclosure of applica-

1        tions, orders, or other related materials shall be final  
 2        orders and binding upon all courts of the United  
 3        States and the several States except a United States  
 4        Court of Appeals or the Supreme Court.”.

5            (4) CONSUMER REPORTS REQUESTED BY GOV-  
 6        ERNMENTAL AGENCIES.—Section 626 of the Fair  
 7        Credit Reporting Act (15 U.S.C. 1681v), as amend-  
 8        ed by subsection (d), is amended by adding at the  
 9        end the following:

10        “(g) USE OF INFORMATION.—Any information ac-  
 11        quired from a request pursuant to this section concerning  
 12        any United States person may be used and disclosed by  
 13        Federal officers and employees, a State, or a political sub-  
 14        division of a State without the consent of the United  
 15        States person only in accordance with the procedures es-  
 16        tablished under section 625(p).”.

17        (f) DEFINITIONS.—

18            (1) FINANCIAL RECORD REQUESTS.—Section  
 19        1101 of the Right to Financial Privacy Act of 1978  
 20        (12 U.S.C. 3401) is amended—

21            (A) in paragraph (7), by striking “and” at  
 22        the end;

23            (B) in paragraph (8), by striking the pe-  
 24        riod and inserting “; and”; and

25            (C) by adding at the end the following:

1           “(9) the term ‘agent of a foreign power’ has the  
2 meaning given such term by section 101(b) of the  
3 Foreign Intelligence Surveillance Act of 1978 (50  
4 U.S.C. 1801(b));

5           “(10) the term ‘aggrieved person’ means any  
6 person whose financial records are produced, dis-  
7 closed, or otherwise made public without the consent  
8 of such person; and

9           “(11) the term ‘foreign power’ has the meaning  
10 given such term by section 101(a) of the Foreign In-  
11 telligence Surveillance Act of 1978 (50 U.S.C.  
12 1801(a)).”.

13           (2) CONSUMER REPORT REQUESTS.—Section  
14 603 of the Fair Credit Reporting Act (15 U.S.C.  
15 1681a) is amended by adding at the end the fol-  
16 lowing:

17           “(y) AGENT OF A FOREIGN POWER.—The term  
18 ‘agent of a foreign power’ has the meaning given such  
19 term by section 101(b) of the Foreign Intelligence Surveil-  
20 lance Act of 1978 (50 U.S.C. 1801(b)).

21           “(z) AGGRIEVED PERSON.—The term ‘aggrieved per-  
22 son’ means any consumer or person whose consumer re-  
23 port is produced, disclosed, or otherwise made public with-  
24 out the consent of such consumer or person.

1       “(aa) FOREIGN POWER.—The term ‘foreign power’  
2 has the meaning given such term by section 101(a) of the  
3 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
4 1801(a)).”.

5 **SEC. 6. PRIVACY PROTECTIONS FOR PEN REGISTERS AND**  
6 **TRAP AND TRACE DEVICES.**

7       (a) CRIMINAL AUTHORITY.—

8           (1) APPLICATION FOR AN ORDER.—Section  
9 3122(b)(2) of title 18, United States Code, is  
10 amended by striking “a certification by the appli-  
11 cant” and inserting “a statement by the applicant of  
12 specific and articulable facts showing there is reason  
13 to believe”.

14           (2) ISSUANCE OF AN ORDER.—Section 3123(a)  
15 of title 18, United States Code, is amended—

16           (A) in paragraph (1), by striking “the at-  
17 torney for the Government has certified to the  
18 court that the information likely to be obtained  
19 by such installation and use is relevant to an  
20 ongoing criminal investigation.” and inserting  
21 “the application meets the requirements of sec-  
22 tion 3122.”; and

23           (B) in paragraph (2), by striking “the  
24 State law enforcement or investigative officer”



1           and all that follows and inserting “the applica-  
2           tion meets the requirements of section 3122.”.

3           (3) REPORTING.—Section 3126 of title 18,  
4           United States Code, is amended—

5                   (A) in the matter preceding paragraph (1),  
6           by striking “law enforcement agencies of the  
7           Department of Justice” and inserting “attor-  
8           neys for the Government”;

9                   (B) in paragraph (4), by striking “and” at  
10          the end;

11                  (C) in paragraph (5), by striking the pe-  
12          riod and inserting “; and”;

13                  (D) in the matter preceding paragraph (1),  
14          by striking “The Attorney General” and insert-  
15          ing the following:

16          “(a) REPORT TO CONGRESS.—The Attorney Gen-  
17          eral”; and

18                  (E) by adding at the end the following:

19                   “(6) whether the application for the order and  
20          the applications for any extensions were granted as  
21          applied for, modified, or denied;

22                   “(7) the specific types of dialing, routing, ad-  
23          dressing, or signaling information sought in the ap-  
24          plication and obtained with the order; and

1           “(8) a summary of any litigation to which the  
2           Government is or was a party regarding the inter-  
3           pretation of the provisions of this chapter.

4           “(b) PUBLIC REPORT.—The Attorney General shall  
5           annually make public a full and complete report con-  
6           cerning the number of applications for pen register orders  
7           and orders for trap and trace devices applied for pursuant  
8           to this chapter and the number of such orders and exten-  
9           sions of such orders granted or denied pursuant to this  
10          chapter during the preceding calendar year. Such report  
11          shall include a summary and analysis of the data required  
12          to be reported to Congress under subsection (a).”.

13           (4) NOTICE.—Section 3123 of title 18, United  
14          States Code, is amended by adding at the end the  
15          following:

16          “(e) NOTICE.—

17           “(1) INVENTORY.—A court that receives an ap-  
18          plication for an order or extension under section  
19          3122(a) shall cause to be served on the persons  
20          named in the application, and such other parties to  
21          communications as the court determines should re-  
22          ceive notice in the interest of justice, an inventory,  
23          including—

24           “(A) the fact of the application for an  
25          order or extension under section 3122(a) and

1           whether the court granted or denied such appli-  
2           cation; and

3           “(B) if the order or extension was grant-  
4           ed—

5           “(i) the date of the entry of such  
6           order or extension and the period of au-  
7           thorized, approved, or disapproved use of  
8           the pen register or trap and trace device;

9           “(ii) whether a pen register or trap  
10          and trace device was installed or used dur-  
11          ing the period authorized; and

12          “(iii) the specific types of dialing,  
13          routing, addressing, or signaling informa-  
14          tion sought in the application and collected  
15          by the pen register or trap and trace de-  
16          vice.

17          “(2) TIMING.—The court shall serve notice  
18          under paragraph (1) within a reasonable time, but  
19          not later than 90 days after—

20          “(A) the filing of the application for an  
21          order or extension under section 3122(a) that is  
22          denied; or

23          “(B) the termination of the period of an  
24          order, or extensions thereof, that is granted.

1           “(3) DELAY.—The court may issue an ex parte  
2 order postponing the service of the inventory re-  
3 quired under paragraph (1) upon a showing of good  
4 cause by an attorney for the Government.

5           “(4) INSPECTION.—Upon the filing of a motion,  
6 the court may make available for inspection by a  
7 person served under paragraph (1), or counsel for  
8 such person, such portions of the collected commu-  
9 nications, applications, and orders as the court de-  
10 termines to be in the interest of justice.”.

11          (b) FOREIGN INTELLIGENCE AUTHORITY.—Section  
12 402(c)(2) of the Foreign Intelligence Surveillance Act of  
13 1978 (50 U.S.C. 1842(c)(2)) is amended by striking “a  
14 certification by the applicant” and inserting “a statement  
15 by the applicant of specific and articulable facts showing  
16 there is reason to believe”.

17 **SEC. 7. MODIFICATION OF DEFINITION OF DOMESTIC TER-**  
18 **RORISM.**

19          Section 2331(5) of title 18, United States Code, is  
20 amended—

21           (1) by striking subparagraphs (A) and (B) and  
22 inserting the following:

23           “(A) involve acts dangerous to human life  
24 that constitute a Federal crime of terrorism (as

1           that term is defined in section 2332b(g)(5));  
2           and”; and

3           (2) by redesignating subparagraph (C) as sub-  
4           paragraph (B).

5 **SEC. 8. PUBLIC REPORTING ON THE FOREIGN INTEL-**  
6 **LIGENCE SURVEILLANCE ACT OF 1978.**

7           (a) IN GENERAL.—Section 601(a) of the Foreign In-  
8           telligence Surveillance Act of 1978 (50 U.S.C. 1871(a))  
9           is amended in the matter preceding paragraph (1)—

10           (1) by striking “, in a manner consistent with  
11           the protection of national security,”; and

12           (2) by inserting “public” before “report”.

13           (b) REDACTION.—Section 601(a)(5) of the Foreign  
14           Intelligence Surveillance Act of 1978 (50 U.S.C.  
15           1871(a)(5)) is amended by inserting “, which may be re-  
16           dacted in order to protect national security” after “that  
17           include significant construction or interpretation of the  
18           provisions of this Act”.

○