## Part A - Text of Amendment to be Considered as Adopted

# AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3773

**OFFERED BY M__. _____**

**Showing the merged text of H.R. 3773 for purposes of floor consideration**

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Responsible Electronic Surveillance That is Overseen, Reviewed, and Effective Act of 2007" or "RESTORE Act of 2007".

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

Sec. 1. Short title; table of contents.
Sec. 2. Clarification of electronic surveillance of non-United States persons outside the United States.
Sec. 3. Additional authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.
Sec. 4. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.
Sec. 5. Oversight of acquisitions of communications of non-United States persons located outside of the United States who may be communicating with persons inside the United States.
Sec. 6. Foreign Intelligence Surveillance Court en banc.
Sec. 7. Foreign Intelligence Surveillance Court matters.
Sec. 8. Reiteration of FISA as the exclusive means by which electronic surveillance may be conducted for gathering foreign intelligence information.
Sec. 9. Enhancement of electronic surveillance authority in wartime and other collection.
Sec. 10. Audit of warrantless surveillance programs.

Sec. 11. Record-keeping system on acquisition of communications of United States persons.
Sec. 12. Authorization for increased resources relating to foreign intelligence surveillance.
Sec. 13. Document management system for applications for orders approving electronic surveillance.
Sec. 14. Training of intelligence community personnel in foreign intelligence collection matters.
Sec. 15. Information for Congress on the terrorist surveillance program and similar programs.
Sec. 16. Technical and conforming amendments.
Sec. 17. Sunset; transition procedures.

**SEC. 2. CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES.**

Section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

"CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES

"SEC. 105A. (a) FOREIGN TO FOREIGN COMMUNICATIONS.—Notwithstanding any other provision of this Act, a court order is not required for the acquisition of the contents of any communication between persons that are not United States persons and are not located within the United States for the purpose of collecting foreign intelligence information, without respect to whether the communication passes through the United States or the surveillance device is located within the United States.

"(b) COMMUNICATIONS OF NON-UNITED STATES PERSONS OUTSIDE OF THE UNITED STATES.—Notwith-

1 standing any other provision of this Act other than sub-
2 section (a), electronic surveillance that is directed at the
3 acquisition of the communications of a person that is rea-
4 sonably believed to be located outside the United States
5 and not a United States person for the purpose of col-
6 lecting foreign intelligence information (as defined in
7 paragraph (1) or (2)(A) of section 101(e)) by targeting
8 that person shall be conducted pursuant to—
9 "(1) an order approved in accordance with sec-
10 tion 105 or 105B; or
11 "(2) an emergency authorization in accordance
12 with section 105 or 105C.".

13 **SEC. 3. ADDITIONAL AUTHORIZATION OF ACQUISITIONS OF**
14 **COMMUNICATIONS OF NON-UNITED STATES**
15 **PERSONS LOCATED OUTSIDE THE UNITED**
16 **STATES WHO MAY BE COMMUNICATING WITH**
17 **INSIDE THE UNITED STATES.**

18 Section 105B of the Foreign Intelligence Surveillance
19 Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read
20 as follows:

1 "ADDITIONAL AUTHORIZATION OF ACQUISITIONS OF COM-
2 MUNICATIONS OF NON-UNITED STATES PERSONS LO-
3 CATED OUTSIDE THE UNITED STATES WHO MAY BE
4 COMMUNICATING WITH PERSONS INSIDE THE
5 UNITED STATES

6 "SEC. 105B. (a) IN GENERAL.—Notwithstanding
7 any other provision of this Act, the Director of National
8 Intelligence and the Attorney General may jointly apply
9 to a judge of the court established under section 103(a)
10 for an ex parte order, or the extension of an order, author-
11 izing for a period of up to one year the acquisition of com-
12 munications of persons that are reasonably believed to be
13 located outside the United States and not United States
14 persons for the purpose of collecting foreign intelligence
15 information (as defined in paragraph (1) or (2)(A) of sec-
16 tion 101(e)) by targeting those persons.

17 "(b) APPLICATION INCLUSIONS.—An application
18 under subsection (a) shall include—

19 "(1) a certification by the Director of National
20 Intelligence and the Attorney General that—

21 "(A) the targets of the acquisition of for-
22 eign intelligence information under this section
23 are persons reasonably believed to be located
24 outside the United States who may be commu-
25 nicating with persons inside the United States;

1 "(B) the targets of the acquisition are rea-
2 sonably believed to be persons that are not
3 United States persons;
4 "(C) the acquisition involves obtaining the
5 foreign intelligence information from, or with
6 the assistance of, a communications service pro-
7 vider or custodian, or an officer, employee, or
8 agent of such service provider or custodian, who
9 has authorized access to the communications to
10 be acquired, either as they are transmitted or
11 while they are stored, or equipment that is
12 being or may be used to transmit or store such
13 communications; and
14 "(D) a significant purpose of the acquisi-
15 tion is to obtain foreign intelligence information
16 (as defined in paragraph (1) or (2)(A) of sec-
17 tion 101(e)); and
18 "(2) a description of—
19 "(A) the procedures that will be used by
20 the Director of National Intelligence and the
21 Attorney General during the duration of the
22 order to determine that there is a reasonable
23 belief that the persons that are the targets of
24 the acquisition are located outside the United
25 States and not United States persons;

"(B) the nature of the information sought, including the identity of any foreign power against whom the acquisition will be directed;

"(C) minimization procedures that meet the definition of minimization procedures under section 101(h) to be used with respect to such acquisition; and

"(D) the guidelines that will be used to ensure that an application is filed under section 104, if otherwise required by this Act, when a significant purpose of an acquisition is to acquire the communications of a specific United States person reasonably believed to be located in the United States.

"(c) SPECIFIC PLACE NOT REQUIRED.—An application under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

"(d) REVIEW OF APPLICATION.—Not later than 15 days after a judge receives an application under subsection (a), the judge shall review such application and shall approve the application if the judge finds that—

"(1) the proposed procedures referred to in subsection (b)(2)(A) are reasonably designed to deter-

1 mine whether the targets of the acquisition are lo-
2 cated outside the United States and not United
3 States persons;
4 "(2) the proposed minimization procedures re-
5 ferred to in subsection (b)(2)(C) meet the definition
6 of minimization procedures under section 101(h);
7 and
8 "(3) the guidelines referred to in subsection
9 (b)(2)(D) are reasonably designed to ensure that an
10 application is filed under section 104, if otherwise
11 required by this Act, when a significant purpose of
12 an acquisition is to acquire the communications of a
13 specific United States person reasonably believed to
14 be located in the United States.
15 "(e) ORDER.—
16 "(1) IN GENERAL.—A judge approving an ap-
17 plication under subsection (d) shall issue an order—
18 "(A) authorizing the acquisition of the con-
19 tents of the communications as requested, or as
20 modified by the judge;
21 "(B) requiring the communications service
22 provider or custodian, or officer, employee, or
23 agent of such service provider or custodian, who
24 has authorized access to the information, facili-
25 ties, or technical assistance necessary to accom-

1 plish the acquisition to provide such informa-
2 tion, facilities, or technical assistance necessary
3 to accomplish the acquisition and to produce a
4 minimum of interference with the services that
5 provider, custodian, officer, employee, or agent
6 is providing the target of the acquisition;
7 "(C) requiring such communications serv-
8 ice provider, custodian, officer, employee, or
9 agent, upon the request of the applicant, to
10 maintain under security procedures approved by
11 the Attorney General and the Director of Na-
12 tional Intelligence any records concerning the
13 acquisition or the aid furnished;
14 "(D) directing the Federal Government
15 to—
16 "(i) compensate, at the prevailing
17 rate, a person for providing information,
18 facilities, or assistance pursuant to such
19 order; and
20 "(ii) provide a copy of the portion of
21 the order directing the person to comply
22 with the order to such person; and
23 "(E) directing the applicant to follow—

1 "(i) the procedures referred to in sub-
2 section (b)(2)(A) as proposed or as modi-
3 fied by the judge;
4 "(ii) the minimization procedures re-
5 ferred to in subsection (b)(2)(C) as pro-
6 posed or as modified by the judge; and
7 "(iii) the guidelines referred to in sub-
8 section (b)(2)(D) as proposed or as modi-
9 fied by the judge.
10 "(2) FAILURE TO COMPLY.—If a person fails to
11 comply with an order issued under paragraph (1),
12 the Attorney General may invoke the aid of the
13 court established under section 103(a) to compel
14 compliance with the order. Failure to obey an order
15 of the court may be punished by the court as con-
16 tempt of court. Any process under this section may
17 be served in any judicial district in which the person
18 may be found.
19 "(3) LIABILITY OF ORDER.—Notwithstanding
20 any other law, no cause of action shall lie in any
21 court against any person for providing any informa-
22 tion, facilities, or assistance in accordance with an
23 order issued under this subsection.
24 "(4) RETENTION OF ORDER.—The Director of
25 National Intelligence and the court established

1 under subsection 103(a) shall retain an order issued
2 under this section for a period of not less than 10
3 years from the date on which such order is issued.
4 "(5) ASSESSMENT OF COMPLIANCE WITH
5 COURT ORDER.—At or before the end of the period
6 of time for which an acquisition is approved by an
7 order or an extension under this section, the court
8 established under section 103(a) shall, not less fre-
9 quently than once each quarter, assess compliance
10 with the procedures and guidelines referred to in
11 paragraph (1)(E) and review the circumstances
12 under which information concerning United States
13 persons was acquired, retained, or disseminated.".

14 **SEC. 4. EMERGENCY AUTHORIZATION OF ACQUISITIONS OF**
15 **COMMUNICATIONS OF NON-UNITED STATES**
16 **PERSONS LOCATED OUTSIDE THE UNITED**
17 **STATES WHO MAY BE COMMUNICATING WITH**
18 **PERSONS INSIDE THE UNITED STATES.**

19 Section 105C of the Foreign Intelligence Surveillance
20 Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read
21 as follows:

1 "EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COM-
2 MUNICATIONS OF NON-UNITED STATES PERSONS LO-
3 CATED OUTSIDE THE UNITED STATES WHO MAY BE
4 COMMUNICATING WITH PERSONS INSIDE THE
5 UNITED STATES

6 "SEC. 105C. (a) APPLICATION AFTER EMERGENCY
7 AUTHORIZATION.—As soon as is practicable, but not more
8 than 7 days after the Director of National Intelligence and
9 the Attorney General authorize an acquisition under this
10 section, an application for an order authorizing the acqui-
11 sition in accordance with section 105B shall be submitted
12 to the judge referred to in subsection (b)(2) of this section
13 for approval of the acquisition in accordance with section
14 105B.

15 "(b) EMERGENCY AUTHORIZATION.—Notwith-
16 standing any other provision of this Act, the Director of
17 National Intelligence and the Attorney General may joint-
18 ly authorize the emergency acquisition of foreign intel-
19 ligence information (as defined in paragraph (1) or (2)(A)
20 of section 101(e)) for a period of not more than 45 days
21 if—

22 "(1) the Director of National Intelligence and
23 the Attorney General jointly determine that—

24 "(A) an emergency situation exists with re-
25 spect to an authorization for an acquisition

1 under section 105B before an order approving
2 the acquisition under such section can with due
3 diligence be obtained;
4 "(B) the targets of the acquisition of for-
5 eign intelligence information under this section
6 are persons reasonably believed to be located
7 outside the United States who may be commu-
8 nicating with persons inside the United States;
9 "(C) the targets of the acquisition are rea-
10 sonably believed to be persons that are not
11 United States persons;
12 "(D) there are procedures in place that
13 will be used by the Director of National Intel-
14 ligence and the Attorney General during the du-
15 ration of the authorization to determine if there
16 is a reasonable belief that the persons that are
17 the targets of the acquisition are located out-
18 side the United States and not United States
19 persons;
20 "(E) the acquisition involves obtaining the
21 foreign intelligence information from, or with
22 the assistance of, a communications service pro-
23 vider or custodian, or an officer, employee, or
24 agent of such service provider or custodian, who
25 has authorized access to the communications to

1 be acquired, either as they are transmitted or
2 while they are stored, or equipment that is
3 being or may be used to transmit or store such
4 communications;
5 "(F) a significant purpose of the acquisi-
6 tion is to obtain foreign intelligence information
7 (as defined in paragraph (1) or (2)(A) of sec-
8 tion 101(e));
9 "(G) minimization procedures to be used
10 with respect to such acquisition activity meet
11 the definition of minimization procedures under
12 section 101(h); and
13 "(H) there are guidelines that will be used
14 to ensure that an application is filed under sec-
15 tion 104, if otherwise required by this Act,
16 when a significant purpose of an acquisition is
17 to acquire the communications of a specific
18 United States person reasonably believed to be
19 located in the United States; and
20 "(2) the Director of National Intelligence and
21 the Attorney General, or their designees, inform a
22 judge having jurisdiction to approve an acquisition
23 under section 105B at the time of the authorization
24 under this section that the decision has been made
25 to acquire foreign intelligence information.

1 "(c) INFORMATION, FACILITIES, AND TECHNICAL
2 ASSISTANCE.—Pursuant to an authorization of an acquisi-
3 tion under this section, the Attorney General may direct
4 a communications service provider, custodian, or an offi-
5 cer, employee, or agent of such service provider or custo-
6 dian, who has the lawful authority to access the informa-
7 tion, facilities, or technical assistance necessary to accom-
8 plish such acquisition to—
9 "(1) furnish the Attorney General forthwith
10 with such information, facilities, or technical assist-
11 ance in a manner that will protect the secrecy of the
12 acquisition and produce a minimum of interference
13 with the services that provider, custodian, officer,
14 employee, or agent is providing the target of the ac-
15 quisition; and
16 "(2) maintain under security procedures ap-
17 proved by the Attorney General and the Director of
18 National Intelligence any records concerning the ac-
19 quisition or the aid furnished.".

1 **SEC. 5. OVERSIGHT OF ACQUISITIONS OF COMMUNICA-**
2 **TIONS OF NON-UNITED STATES PERSONS LO-**
3 **CATED OUTSIDE OF THE UNITED STATES**
4 **WHO MAY BE COMMUNICATING WITH PER-**
5 **SONS INSIDE THE UNITED STATES.**

6 The Foreign Intelligence Surveillance Act of 1978
7 (50 U.S.C. 1801 et seq.) is amended by inserting after
8 section 105C the following new section:

9 "OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF
10 NON-UNITED STATES PERSONS LOCATED OUTSIDE
11 OF THE UNITED STATES WHO MAY BE COMMU-
12 NICATING WITH PERSONS INSIDE THE UNITED
13 STATES

14 "SEC. 105D. (a) APPLICATION; PROCEDURES; OR-
15 DERS.—Not later than 7 days after an application is sub-
16 mitted under section 105B(a) or an order is issued under
17 section 105B(e), the Director of National Intelligence and
18 the Attorney General shall submit to the appropriate com-
19 mittees of Congress—

20 "(1) in the case of an application—

21 "(A) a copy of the application, including
22 the certification made under section
23 105B(b)(1); and

24 "(B) a description of the primary purpose
25 of the acquisition for which the application is
26 submitted; and

1 "(2) in the case of an order, a copy of the
2 order, including the procedures and guidelines re-
3 ferred to in section 105B(e)(1)(E).
4 "(b) REGULAR AUDITS.—
5 "(1) AUDIT.—Not later than 120 days after the
6 date of the enactment of this section, and every 120
7 days thereafter until the expiration of all orders
8 issued under section 105B, the Inspector General of
9 the Department of Justice shall complete an audit
10 on the implementation of and compliance with the
11 procedures and guidelines referred to in section
12 105B(e)(1)(E) and shall submit to the appropriate
13 committees of Congress, the Attorney General, the
14 Director of National Intelligence, and the court es-
15 tablished under section 103(a) the results of such
16 audit, including, for each order authorizing the ac-
17 quisition of foreign intelligence under section
18 105B—
19 "(A) the number of targets of an acquisi-
20 tion under such order that were later deter-
21 mined to be located in the United States;
22 "(B) the number of persons located in the
23 United States whose communications have been
24 acquired under such order;

1 "(C) the number and nature of reports dis-
2 seminated containing information on a United
3 States person that was collected under such
4 order; and
5 "(D) the number of applications submitted
6 for approval of electronic surveillance under
7 section 104 for targets whose communications
8 were acquired under such order.
9 "(2) REPORT.—Not later than 30 days after
10 the completion of an audit under paragraph (1), the
11 Attorney General shall submit to the appropriate
12 committees of Congress and the court established
13 under section 103(a) a report containing the results
14 of such audit.
15 "(c) COMPLIANCE REPORTS.—Not later than 60 days
16 after the date of the enactment of this section, and every
17 120 days thereafter until the expiration of all orders
18 issued under section 105B, the Director of National Intel-
19 ligence and the Attorney General shall submit to the ap-
20 propriate committees of Congress and the court estab-
21 lished under section 103(a) a report concerning acquisi-
22 tions under section 105B during the previous period. Each
23 report submitted under this section shall include a descrip-
24 tion of any incidents of non-compliance with an order

1 issued under section 105B(e), including incidents of non-
2 compliance by—
3 "(1) an element of the intelligence community
4 with procedures referred to in section
5 105B(e)(1)(E)(i);
6 "(2) an element of the intelligence community
7 with minimization procedures referred to in section
8 105B(e)(1)(E)(ii);
9 "(3) an element of the intelligence community
10 with guidelines referred to in section
11 105B(e)(1)(E)(iii); and
12 "(4) a person directed to provide information,
13 facilities, or technical assistance under such order.
14 "(d) REPORT ON EMERGENCY AUTHORITY.—The Di-
15 rector of National Intelligence and the Attorney General
16 shall annually submit to the appropriate committees of
17 Congress a report containing the number of emergency au-
18 thorizations of acquisitions under section 105C and a de-
19 scription of any incidents of non-compliance with an emer-
20 gency authorization under such section.
21 "(e) APPROPRIATE COMMITTEES OF CONGRESS DE-
22 FINED.—In this section, the term 'appropriate committees
23 of Congress' means—
24 "(1) the Permanent Select Committee on Intel-
25 ligence of the House of Representatives;

1 "(2) the Select Committee on Intelligence of the
2 Senate; and
3 "(3) the Committees on the Judiciary of the
4 House of Representatives and the Senate.".

5 **SEC. 6. FOREIGN INTELLIGENCE SURVEILLANCE COURT EN**
6 **BANC.**

7 Section 103 of the Foreign Intelligence Surveillance
8 Act of 1978 (50 U.S.C. 1803) is amended by adding at
9 the end the following new subsection:
10 "(g) In any case where the court established under
11 subsection (a) or a judge of such court is required to re-
12 view a matter under this Act, the court may, at the discre-
13 tion of the court, sit en banc to review such matter and
14 issue any orders related to such matter.".

15 **SEC. 7. FOREIGN INTELLIGENCE SURVEILLANCE COURT**
16 **MATTERS.**

17 (a) AUTHORITY FOR ADDITIONAL JUDGES.—Section
18 103(a) of the Foreign Intelligence Surveillance Act of
19 1978 (50 U.S.C. 1803(a)) is amended—
20 (1) by inserting "(1)" after "(a)";
21 (2) in paragraph (1) (as so designated)—
22 (A) by striking "11" and inserting "15";
23 and
24 (B) by inserting "at least" before "seven
25 of the United States judicial circuits"; and

1 (3) by designating the second sentence as para-
2 graph (3) and indenting such paragraph, as so des-
3 ignated, two ems from the left margin.
4 (b) CONSIDERATION OF EMERGENCY APPLICA-
5 TIONS.—Such section is further amended by inserting
6 after paragraph (1) (as designated by subsection (a)(1))
7 the following new paragraph:
8 "(2) A judge of the court shall make a determination
9 to approve, deny, or modify an application submitted pur-
10 suant to section 105(f), section 304(e), or section 403 not
11 later than 24 hours after the receipt of such application
12 by the court.".

13 **SEC. 8. REITERATION OF FISA AS THE EXCLUSIVE MEANS**
14 **BY WHICH ELECTRONIC SURVEILLANCE MAY**
15 **BE CONDUCTED FOR GATHERING FOREIGN**
16 **INTELLIGENCE INFORMATION.**

17 (a) EXCLUSIVE MEANS.—Notwithstanding any other
18 provision of law, the Foreign Intelligence Surveillance Act
19 of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive
20 means by which electronic surveillance may be conducted
21 for the purpose of gathering foreign intelligence informa-
22 tion.
23 (b) SPECIFIC AUTHORIZATION REQUIRED FOR EX-
24 CEPTION.—Subsection (a) shall apply until specific statu-
25 tory authorization for electronic surveillance, other than

1 as an amendment to the Foreign Intelligence Surveillance
2 Act of 1978 (50 U.S.C. 1801 et seq.), is enacted. Such
3 specific statutory authorization shall be the only exception
4 to subsection (a).

5 **SEC. 9. ENHANCEMENT OF ELECTRONIC SURVEILLANCE**
6 **AUTHORITY IN WARTIME AND OTHER COL-**
7 **LECTION.**

8 Sections 111, 309, and 404 of the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1811, 1829,
10 and 1844) are amended by striking "Congress" and in-
11 serting "Congress or an authorization for the use of mili-
12 tary force described in section 2(c)(2) of the War Powers
13 Resolution (50 U.S.C. 1541(c)(2)) if such authorization
14 contains a specific authorization for foreign intelligence
15 collection under this section, or if the Congress is unable
16 to convene because of an attack upon the United States.".

17 **SEC. 10. AUDIT OF WARRANTLESS SURVEILLANCE PRO-**
18 **GRAMS.**

19 (a) AUDIT.—Not later than 180 days after the date
20 of the enactment of this Act, the Inspector General of the
21 Department of Justice shall complete an audit of all pro-
22 grams of the Federal Government involving the acquisition
23 of communications conducted without a court order on or
24 after September 11, 2001, including the Terrorist Surveil-
25 lance Program referred to by the President in a radio ad-

1 dress on December 17, 2005. Such audit shall include ac-
2 quiring all documents relevant to such programs, includ-
3 ing memoranda concerning the legal authority of a pro-
4 gram, authorizations of a program, certifications to tele-
5 communications carriers, and court orders.

6 (b) REPORT.—

7 (1) IN GENERAL.—Not later than 30 days after
8 the completion of the audit under subsection (a), the
9 Inspector General shall submit to the Permanent Se-
10 lect Committee on Intelligence and the Committee
11 on the Judiciary of the House of Representatives
12 and the Select Committee on Intelligence and the
13 Committee on the Judiciary of the Senate a report
14 containing the results of such audit, including all
15 documents acquired pursuant to conducting such
16 audit.

17 (2) FORM.—The report under paragraph (1)
18 shall be submitted in unclassified form, but may in-
19 clude a classified annex.

20 (c) EXPEDITED SECURITY CLEARANCE.—The Direc-
21 tor of National Intelligence shall ensure that the process
22 for the investigation and adjudication of an application by
23 the Inspector General or the appropriate staff of the Of-
24 fice of the Inspector General of the Department of Justice
25 for a security clearance necessary for the conduct of the

1 audit under subsection (a) is conducted as expeditiously
2 as possible.

3 **SEC. 11. RECORD-KEEPING SYSTEM ON ACQUISITION OF**
4 **COMMUNICATIONS OF UNITED STATES PER-**
5 **SONS.**

6 (a) RECORD-KEEPING SYSTEM.—The Director of
7 National Intelligence and the Attorney General shall joint-
8 ly develop and maintain a record-keeping system that will
9 keep track of—

10 (1) the instances where the identity of a United
11 States person whose communications were acquired
12 was disclosed by an element of the intelligence com-
13 munity (as defined in section 3(4) of the National
14 Security Act of 1947 (50 U.S.C. 401a(4)) that col-
15 lected the communications to other departments or
16 agencies of the United States; and

17 (2) the departments and agencies of the Fed-
18 eral Government and persons to whom such identity
19 information was disclosed.

20 (b) REPORT.—The Director of National Intelligence
21 and the Attorney General shall annually submit to the
22 Permanent Select Committee on Intelligence and the Com-
23 mittee on the Judiciary of the House of Representatives
24 and the Select Committee on Intelligence and the Com-
25 mittee on the Judiciary of the Senate a report on the

1 record-keeping system created under subsection (a), in-
2 cluding the number of instances referred to in paragraph
3 (1).

4 **SEC. 12. AUTHORIZATION FOR INCREASED RESOURCES RE-**
5 **LATING TO FOREIGN INTELLIGENCE SUR-**
6 **VEILLANCE.**

7 (a) IN GENERAL.—There are authorized to be appro-
8 priated the Department of Justice, for the activities of the
9 Office of the Inspector General, the appropriate elements
10 of the National Security Division, and the National Secu-
11 rity Agency such sums as may be necessary to meet the
12 personnel and information technology demands to ensure
13 the timely and efficient processing of—

14 (1) applications and other submissions to the
15 court established under section 103(a) of the For-
16 eign Intelligence Surveillance Act of 1978 (50
17 U.S.C. 1803(a));

18 (2) the audit and reporting requirements
19 under—

20 (A) section 105D of such Act; and

21 (B) section 10; and

22 (3) the record-keeping system and reporting re-
23 quirements under section 11.

24 (b) ADDITIONAL PERSONNEL FOR PREPARATION
25 AND CONSIDERATION OF APPLICATIONS FOR ORDERS AP-

1 PROVING ELECTRONIC SURVEILLANCE AND PHYSICAL
2 SEARCH.—
3 (1) NATIONAL SECURITY DIVISION OF THE DE-
4 PARTMENT OF JUSTICE.—
5 (A) ADDITIONAL PERSONNEL.—The Na-
6 tional Security Division of the Department of
7 Justice is hereby authorized such additional
8 personnel as may be necessary to carry out the
9 prompt and timely preparation, modification,
10 and review of applications under Foreign Intel-
11 ligence Surveillance Act of 1978 for orders
12 under that Act for foreign intelligence purposes.
13 (B) ASSIGNMENT.—The Attorney General
14 shall assign personnel authorized by paragraph
15 (1) to and among appropriate offices of the in-
16 telligence community (as defined in section 3(4)
17 of the National Security Act of 1947 (50
18 U.S.C. 401a(4))) in order that such personnel
19 may directly assist personnel of the Intelligence
20 Community in preparing applications described
21 in that paragraph and conduct prompt and ef-
22 fective oversight of the activities of such agen-
23 cies under Foreign Intelligence Surveillance
24 Court orders.
25 (2) DIRECTOR OF NATIONAL INTELLIGENCE.—

1 (A) ADDITIONAL LEGAL AND OTHER PER-
2 SONNEL.—The Director of National Intelligence
3 is hereby authorized such additional legal and
4 other personnel as may be necessary to carry
5 out the prompt and timely preparation of appli-
6 cations under the Foreign Intelligence Surveil-
7 lance Act of 1978 for orders under that Act ap-
8 proving electronic surveillance for foreign intel-
9 ligence purposes.
10 (B) ASSIGNMENT.—The Director of Na-
11 tional Intelligence shall assign personnel au-
12 thorized by paragraph (1) to and among the in-
13 telligence community (as defined in section 3(4)
14 of the National Security Act of 1947 (50
15 U.S.C. 401a(4))), including the field offices of
16 the Federal Bureau of Investigation, in order
17 that such personnel may directly assist per-
18 sonnel of the intelligence community in pre-
19 paring applications described in that paragraph.
20 (3) ADDITIONAL LEGAL AND OTHER PER-
21 SONNEL FOR FOREIGN INTELLIGENCE SURVEIL-
22 LANCE COURT.—There is hereby authorized for the
23 court established under section 103(a) of the For-
24 eign Intelligence Surveillance Act of 1978 (50
25 U.S.C. 1803(a)) such additional staff personnel as

may be necessary to facilitate the prompt and timely consideration by that court of applications under such Act for orders under such Act approving electronic surveillance for foreign intelligence purposes. Personnel authorized by this paragraph shall perform such duties relating to the consideration of such applications as that court shall direct.

(4) SUPPLEMENT NOT SUPPLANT.—The personnel authorized by this section are in addition to any other personnel authorized by law.

**SEC. 13. DOCUMENT MANAGEMENT SYSTEM FOR APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE.**

(a) SYSTEM REQUIRED.—The Attorney General shall, in consultation with the Director of National Intelligence and the Foreign Intelligence Surveillance Court, develop and implement a secure, classified document management system that permits the prompt preparation, modification, and review by appropriate personnel of the Department of Justice, the Federal Bureau of Investigation, the National Security Agency, and other applicable elements of the United States Government of applications under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) before their submission to the Foreign Intelligence Surveillance Court.

1 (b) SCOPE OF SYSTEM.—The document management
2 system required by subsection (a) shall—
3 (1) permit and facilitate the prompt submittal
4 of applications to the Foreign Intelligence Surveil-
5 lance Court under the Foreign Intelligence Surveil-
6 lance Act of 1978; and
7 (2) permit and facilitate the prompt transmittal
8 of rulings of the Foreign Intelligence Surveillance
9 Court to personnel submitting applications described
10 in paragraph (1), and provide for the secure elec-
11 tronic storage and retrieval of all such applications
12 and related matters with the court and for their se-
13 cure transmission to the National Archives and
14 Records Administration.

15 **SEC. 14. TRAINING OF INTELLIGENCE COMMUNITY PER-**
16 **SONNEL IN FOREIGN INTELLIGENCE COL-**
17 **LECTION MATTERS.**

18 The Director of National Intelligence shall, in con-
19 sultation with the Attorney General—
20 (1) develop regulations to establish procedures
21 for conducting and seeking approval of electronic
22 surveillance, physical search, and the installation
23 and use of pen registers and trap and trace devices
24 on an emergency basis, and for preparing and prop-
25 erly submitting and receiving applications and orders

1 under the Foreign Intelligence Surveillance Act of
2 1978; and
3 (2) prescribe related training on the Foreign
4 Intelligence Surveillance Act of 1978 and related
5 legal matters for the personnel of the applicable
6 agencies of the intelligence community (as defined in
7 section 3(4) of the National Security Act of 1947
8 (50 U.S.C. 401a(4))).

9 **SEC. 15. INFORMATION FOR CONGRESS ON THE TERRORIST**
10 **SURVEILLANCE PROGRAM AND SIMILAR PRO-**
11 **GRAMS.**

12 As soon as practicable after the date of the enactment
13 of this Act, but not later than seven days after such date,
14 the President shall fully inform each member of the Per-
15 manent Select Committee on Intelligence of the House of
16 Representatives and the Select Committee on Intelligence
17 of the Senate on the following:
18 (1) The Terrorist Surveillance Program of the
19 National Security Agency.
20 (2) Any program in existence from September
21 11, 2001, until the effective date of this Act that in-
22 volves, whether in part or in whole, the electronic
23 surveillance of United States persons in the United
24 States for foreign intelligence or other purposes, and
25 which is conducted by any department, agency, or

1 other element of the United States Government, or
2 by any entity at the direction of a department, agen-
3 cy, or other element of the United States Govern-
4 ment, without fully complying with the procedures
5 set forth in the Foreign Intelligence Surveillance Act
6 of 1978 (50 U.S.C. 1801 et seq.) or chapter 119,
7 121, or 206 of title 18, United States Code.

8 **SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.**

9 (a) TABLE OF CONTENTS.—The table of contents in
10 the first section of the Foreign Intelligence Surveillance
11 Act of 1978 (50 U.S.C. 1801 et seq.) is amended by strik-
12 ing the items relating to sections 105A, 105B, and 105C
13 and inserting the following new items:

"Sec. 105A. Clarification of electronic surveillance of non-United States persons outside the United States.
"Sec. 105B. Additional authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.
"Sec. 105C. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.
"Sec. 105D. Oversight of acquisitions of communications of non-United States persons located outside of the United States who may be communicating with persons inside the United States.".

14 (b) SECTION 103(e) OF FISA.—Section 103(e) of the
15 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
16 1803(e)) is amended—
17 (1) in paragraph (1), by striking "105B(h) or";
18 and
19 (2) in paragraph (2), by striking "105B(h) or".

1 (c) REPEAL OF CERTAIN PROVISIONS OF THE PRO-
2 TECT AMERICA ACT.—Sections 4 and 6 of the Protect
3 America Act (Public Law 110–55) are hereby repealed.
4 **SEC. 17. SUNSET; TRANSITION PROCEDURES.**
5 (a) SUNSET OF NEW PROVISIONS.—
6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), effective on December 31, 2009—
8 (A) sections 105A, 105B, 105C, and 105D
9 of the Foreign Intelligence Surveillance Act of
10 1978 (50 U.S.C. 1801 et seq.) are hereby re-
11 pealed; and
12 (B) the table of contents in the first sec-
13 tion of such Act is amended by striking the
14 items relating to sections 105A, 105B, 105C,
15 and 105D.
16 (2) ACQUISITIONS AUTHORIZED PRIOR TO SUN-
17 SET.—Any authorization or order issued under sec-
18 tion 105B of the Foreign Intelligence Surveillance
19 Act of 1978, as amended by this Act, in effect on
20 December 31, 2009, shall continue in effect until the
21 date of the expiration of such authorization or order.
22 (b) ACQUISITIONS AUTHORIZED PRIOR TO ENACT-
23 MENT.—
24 (1) EFFECT.—Notwithstanding the amend-
25 ments made by this Act, an authorization of the ac-

1 quisition of foreign intelligence information under
2 section 105B of the Foreign Intelligence Surveillance
3 Act of 1978 (50 U.S.C. 1801 et seq.) made before
4 the date of the enactment of this Act shall remain
5 in effect until the date of the expiration of such au-
6 thorization or the date that is 180 days after such
7 date of enactment, whichever is earlier.
8 (2) REPORT.—Not later than 30 days after the
9 date of the expiration of all authorizations of acqui-
10 sition of foreign intelligence information under sec-
11 tion 105B of the Foreign Intelligence Surveillance
12 Act of 1978 (as added by Public Law 110–55) made
13 before the date of the enactment of this Act in ac-
14 cordance with paragraph (1), the Director of Na-
15 tional Intelligence and the Attorney General shall
16 submit to the Permanent Select Committee on Intel-
17 ligence and the Committee on the Judiciary of the
18 House of Representatives and the Select Committee
19 on Intelligence and the Committee on the Judiciary
20 of the Senate a report on such authorizations, in-
21 cluding—
22 (A) the number of targets of an acquisition
23 under section 105B of such Act (as in effect on
24 the day before the date of the enactment of this

1 Act) that were later determined to be located in
2 the United States;
3 (B) the number of persons located in the
4 United States whose communications have been
5 acquired under such section;
6 (C) the number of reports disseminated
7 containing information on a United States per-
8 son that was collected under such section;
9 (D) the number of applications submitted
10 for approval of electronic surveillance under
11 section 104 of such Act based upon information
12 collected pursuant to an acquisition authorized
13 under section 105B of such Act (as in effect on
14 the day before the date of the enactment of this
15 Act); and
16 (E) a description of any incidents of non-
17 compliance with an authorization under such
18 section, including incidents of non-compliance
19 by—
20 (i) an element of the intelligence com-
21 munity with procedures referred to in sub-
22 section (a)(1) of such section;
23 (ii) an element of the intelligence com-
24 munity with minimization procedures re-

1 ferred to in subsection (a)(5) of such sec-
2 tion; and
3 (iii) a person directed to provide infor-
4 mation, facilities, or technical assistance
5 under subsection (e) of such section.
6 (3) INTELLIGENCE COMMUNITY DEFINED.—In
7 this subsection, the term "intelligence community"
8 has the meaning given the term in section 3(4) of
9 the National Security Act of 1947 (50 U.S.C.
10 401a(4)).