

# Union Calendar No. 231

110TH CONGRESS  
1ST SESSION

# H. R. 3773

**[Report No. 110-373, Parts I and II]**

To amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2007

Mr. CONYERS (for himself, Mr. REYES, Mr. NADLER, Mr. SCOTT of Virginia, Ms. JACKSON-LEE of Texas, Ms. HOOLEY, Mrs. CHRISTENSEN, and Mr. RODRIGUEZ) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 12, 2007

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 12, 2007

Reported from the Permanent Select Committee on Intelligence with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in **boldface roman**]

[For text of introduced bill, see copy of bill as introduced on October 9, 2007]

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## A BILL

To amend the Foreign Intelligence Surveillance Act of 1978

to establish a procedure for authorizing certain acquisitions of foreign intelligence, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Re-*  
 5 *sponsible Electronic Surveillance That is Overseen, Re-*  
 6 *viewed, and Effective Act of 2007” or “RESTORE Act of*  
 7 *2007”.*

8 (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 9 *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. Procedure for authorizing acquisitions of communications of non-United States persons located outside the United States.*

*Sec. 4. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States.*

*Sec. 5. Oversight of acquisitions of communications of non-United States persons located outside of the United States.*

*Sec. 6. Foreign Intelligence Surveillance Court en banc.*

*Sec. 7. Audit of warrantless surveillance programs.*

*Sec. 8. Record-keeping system on acquisition of communications of United States persons.*

*Sec. 9. Authorization for increased resources relating to foreign intelligence surveillance.*

*Sec. 10. Reiteration of FISA as the exclusive means by which electronic surveillance may be conducted for gathering foreign intelligence information.*

*Sec. 11. Technical and conforming amendments.*

*Sec. 12. Sunset; transition procedures.*

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

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

7 *“CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-*  
8 *UNITED STATES PERSONS OUTSIDE THE UNITED STATES*

9 *“SEC. 105A. (a) FOREIGN TO FOREIGN COMMUNICA-*  
10 *TIONS.—Notwithstanding any other provision of this Act,*  
11 *a court order is not required for the acquisition of the con-*  
12 *tents of any communication between persons that are not*  
13 *United States persons and are not located within the*  
14 *United States for the purpose of collecting foreign intel-*  
15 *ligence information, without respect to whether the commu-*  
16 *nication passes through the United States or the surveil-*  
17 *lance device is located within the United States.*

18 *“(b) COMMUNICATIONS OF NON-UNITED STATES PER-*  
19 *SONS OUTSIDE OF THE UNITED STATES.—Notwithstanding*  
20 *any other provision of this Act other than subsection (a),*  
21 *electronic surveillance that is directed at the acquisition of*  
22 *the communications of a person that is reasonably believed*  
23 *to be located outside the United States and not a United*  
24 *States person for the purpose of collecting foreign intel-*  
25 *ligence information (as defined in paragraph (1) or (2)(A)*

1 of section 101(e)) by targeting that person shall be con-  
2 ducted pursuant to—

3 “(1) an order approved in accordance with sec-  
4 tion 105 or 105B; or

5 “(2) an emergency authorization in accordance  
6 with section 105 or 105C.”.

7 **SEC. 3. PROCEDURE FOR AUTHORIZING ACQUISITIONS OF**  
8 **COMMUNICATIONS OF NON-UNITED STATES**  
9 **PERSONS LOCATED OUTSIDE THE UNITED**  
10 **STATES.**

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

14 “*PROCEDURE FOR AUTHORIZING ACQUISITIONS OF COMMU-*  
15 *NICATIONS OF NON-UNITED STATES PERSONS LO-*  
16 *CATED OUTSIDE THE UNITED STATES*

17 “*SEC. 105B. (a) IN GENERAL.—Notwithstanding any*  
18 *other provision of this Act, the Director of National Intel-*  
19 *ligence and the Attorney General may jointly apply to a*  
20 *judge of the court established under section 103(a) for an*  
21 *ex parte order, or the extension of an order, authorizing*  
22 *for a period of up to one year the acquisition of communica-*  
23 *tions of persons that are reasonably believed to be located*  
24 *outside the United States and not United States persons*  
25 *for the purpose of collecting foreign intelligence information*

1 *(as defined in paragraph (1) or (2)(A) of section 101(e))*  
2 *by targeting those persons.*

3 “(b) *APPLICATION INCLUSIONS.—An application*  
4 *under subsection (a) shall include—*

5 “(1) *a certification by the Director of National*  
6 *Intelligence and the Attorney General that—*

7 “(A) *the targets of the acquisition of foreign*  
8 *intelligence information under this section are*  
9 *persons reasonably believed to be located outside*  
10 *the United States;*

11 “(B) *the targets of the acquisition are rea-*  
12 *sonably believed to be persons that are not*  
13 *United States persons;*

14 “(C) *the acquisition involves obtaining the*  
15 *foreign intelligence information from, or with the*  
16 *assistance of, a communications service provider*  
17 *or custodian, or an officer, employee, or agent of*  
18 *such service provider or custodian, who has au-*  
19 *thorized access to the communications to be ac-*  
20 *quired, either as they are transmitted or while*  
21 *they are stored, or equipment that is being or*  
22 *may be used to transmit or store such commu-*  
23 *nications; and*

24 “(D) *a significant purpose of the acquisi-*  
25 *tion is to obtain foreign intelligence information*

1           *(as defined in paragraph (1) or (2)(A) of section*  
2           *101(e)); and*

3           *“(2) a description of—*

4                   *“(A) the procedures that will be used by the*  
5                   *Director of National Intelligence and the Attor-*  
6                   *ney General during the duration of the order to*  
7                   *determine that there is a reasonable belief that*  
8                   *the targets of the acquisition are persons that are*  
9                   *located outside the United States and not United*  
10                  *States persons;*

11                   *“(B) the nature of the information sought,*  
12                   *including the identity of any foreign power*  
13                   *against whom the acquisition will be directed;*

14                   *“(C) minimization procedures that meet the*  
15                   *definition of minimization procedures under sec-*  
16                   *tion 101(h) to be used with respect to such acqui-*  
17                   *sition; and*

18                   *“(D) the guidelines that will be used to en-*  
19                   *sure that an application is filed under section*  
20                   *104, if otherwise required by this Act, when a*  
21                   *significant purpose of an acquisition is to ac-*  
22                   *quire the communications of a specific person*  
23                   *reasonably believed to be located in the United*  
24                   *States.*

1       “(c) *SPECIFIC PLACE NOT REQUIRED.*—An applica-  
2       tion under subsection (a) is not required to identify the spe-  
3       cific facilities, places, premises, or property at which the  
4       acquisition of foreign intelligence information will be di-  
5       rected.

6       “(d) *REVIEW OF APPLICATION.*—Not later than 15  
7       days after a judge receives an application under subsection  
8       (a), the judge shall review such application and shall ap-  
9       prove the application if the judge finds that—

10               “(1) the proposed procedures referred to in sub-  
11               section (b)(2)(A) are reasonably designed to determine  
12               whether the targets of the acquisition are located out-  
13               side the United States and not United States persons;

14               “(2) the proposed minimization procedures re-  
15               ferred to in subsection (b)(2)(C) meet the definition of  
16               minimization procedures under section 101(h); and

17               “(3) the guidelines referred to in subsection  
18               (b)(2)(D) are reasonably designed to ensure that an  
19               application is filed under section 104, if otherwise re-  
20               quired by this Act, when a significant purpose of an  
21               acquisition is to acquire the communications of a spe-  
22               cific person reasonably believed to be located in the  
23               United States.

24       “(e) *ORDER.*—

1           “(1) *IN GENERAL.*—A judge approving an appli-  
2           *cation under subsection (d) shall issue an order—*

3                   “(A) *authorizing the acquisition of the con-*  
4                   *tents of the communications as requested, or as*  
5                   *modified by the judge;*

6                   “(B) *requiring the communications service*  
7                   *provider or custodian, or officer, employee, or*  
8                   *agent of such service provider or custodian, who*  
9                   *has authorized access to the information, facili-*  
10                   *ties, or technical assistance necessary to accom-*  
11                   *plish the acquisition to provide such informa-*  
12                   *tion, facilities, or technical assistance necessary*  
13                   *to accomplish the acquisition and to produce a*  
14                   *minimum of interference with the services that*  
15                   *provider, custodian, officer, employee, or agent is*  
16                   *providing the target of the acquisition;*

17                   “(C) *requiring such communications service*  
18                   *provider, custodian, officer, employee, or agent,*  
19                   *upon the request of the applicant, to maintain*  
20                   *under security procedures approved by the Attor-*  
21                   *ney General and the Director of National Intel-*  
22                   *ligence any records concerning the acquisition or*  
23                   *the aid furnished;*

24                   “(D) *directing the Federal Government to—*



1           “(i) compensate, at the prevailing rate,  
2           a person for providing information, facili-  
3           ties, or assistance pursuant to such order;  
4           and

5           “(ii) provide a copy of the portion of  
6           the order directing the person to comply  
7           with the order to such person; and

8           “(E) directing the applicant to follow—

9           “(i) the procedures referred to in sub-  
10          section (b)(2)(A) as proposed or as modified  
11          by the judge;

12          “(ii) the minimization procedures re-  
13          ferred to in subsection (b)(2)(C) as proposed  
14          or as modified by the judge; and

15          “(iii) the guidelines referred to in sub-  
16          section (b)(2)(D) as proposed or as modified  
17          by the judge.

18          “(2) FAILURE TO COMPLY.—If a person fails to  
19          comply with an order issued under paragraph (1), the  
20          Attorney General may invoke the aid of the court es-  
21          tablished under section 103(a) to compel compliance  
22          with the order. Failure to obey an order of the court  
23          may be punished by the court as contempt of court.  
24          Any process under this section may be served in any  
25          judicial district in which the person may be found.

1           “(3) *LIABILITY OF ORDER.*—*Notwithstanding*  
2           *any other law, no cause of action shall lie in any*  
3           *court against any person for providing any informa-*  
4           *tion, facilities, or assistance in accordance with an*  
5           *order issued under this subsection.*

6           “(4) *RETENTION OF ORDER.*—*The Director of*  
7           *National Intelligence and the court established under*  
8           *subsection 103(a) shall retain an order issued under*  
9           *this section for a period of not less than 10 years*  
10          *from the date on which such order is issued.*

11          “(5) *ASSESSMENT OF COMPLIANCE WITH COURT*  
12          *ORDER.*—*At or before the end of the period of time for*  
13          *which an acquisition is approved by an order or an*  
14          *extension under this section, the judge shall assess*  
15          *compliance with the procedures and guidelines re-*  
16          *ferred to in paragraph (1)(E) and review the cir-*  
17          *cumstances under which information concerning*  
18          *United States persons was acquired, retained, or dis-*  
19          *seminated.”.*

1 **SEC. 4. EMERGENCY AUTHORIZATION OF ACQUISITIONS OF**  
2 **COMMUNICATIONS OF NON-UNITED STATES**  
3 **PERSONS LOCATED OUTSIDE THE UNITED**  
4 **STATES.**

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

8 “*EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COM-*  
9 *MUNICATIONS OF NON-UNITED STATES PERSONS LO-*  
10 *CATED OUTSIDE THE UNITED STATES*

11 “*SEC. 105C. (a) APPLICATION AFTER EMERGENCY AU-*  
12 *THORIZATION.—As soon as is practicable, but not more*  
13 *than 7 days after the Director of National Intelligence and*  
14 *the Attorney General authorize an acquisition under this*  
15 *section, an application for an order authorizing the acquisi-*  
16 *tion in accordance with section 105B shall be submitted to*  
17 *the judge referred to in subsection (b)(2) of this section for*  
18 *approval of the acquisition in accordance with section*  
19 *105B.*

20 “*(b) EMERGENCY AUTHORIZATION.—Notwithstanding*  
21 *any other provision of this Act, the Director of National*  
22 *Intelligence and the Attorney General may jointly authorize*  
23 *the emergency acquisition of foreign intelligence informa-*  
24 *tion for a period of not more than 45 days if—*

25 “*(1) the Director of National Intelligence and the*  
26 *Attorney General jointly determine that—*

1           “(A) an emergency situation exists with re-  
2 spect to an authorization for an acquisition  
3 under section 105B before an order approving  
4 the acquisition under such section can with due  
5 diligence be obtained;

6           “(B) the targets of the acquisition of foreign  
7 intelligence information under this section are  
8 persons reasonably believed to be located outside  
9 the United States;

10           “(C) the targets of the acquisition are rea-  
11 sonably believed to be persons that are not  
12 United States persons;

13           “(D) there are reasonable procedures in  
14 place for determining that the acquisition of for-  
15 eign intelligence information under this section  
16 will be acquired by targeting only persons that  
17 are reasonably believed to be located outside the  
18 United States and not United States persons;

19           “(E) the acquisition involves obtaining the  
20 foreign intelligence information from, or with the  
21 assistance of, a communications service provider  
22 or custodian, or an officer, employee, or agent of  
23 such service provider or custodian, who has au-  
24 thorized access to the communications to be ac-  
25 quired, either as they are transmitted or while

1           *they are stored, or equipment that is being or*  
2           *may be used to transmit or store such commu-*  
3           *nications;*

4           *“(F) a significant purpose of the acquisi-*  
5           *tion is to obtain foreign intelligence information*  
6           *(as defined in paragraph (1) or (2)(A) of section*  
7           *101(e));*

8           *“(G) minimization procedures to be used*  
9           *with respect to such acquisition activity meet the*  
10          *definition of minimization procedures under sec-*  
11          *tion 101(h); and*

12          *“(H) there are guidelines that will be used*  
13          *to ensure that an application is filed under sec-*  
14          *tion 104, if otherwise required by this Act, when*  
15          *a significant purpose of an acquisition is to ac-*  
16          *quire the communications of a specific person*  
17          *reasonably believed to be located in the United*  
18          *States; and*

19          *“(2) the Director of National Intelligence and the*  
20          *Attorney General, or their designees, inform a judge*  
21          *having jurisdiction to approve an acquisition under*  
22          *section 105B at the time of the authorization under*  
23          *this section that the decision has been made to acquire*  
24          *foreign intelligence information.*

1       “(c) *INFORMATION, FACILITIES, AND TECHNICAL AS-*  
2 *SISTANCE.*—*Pursuant to an authorization of an acquisition*  
3 *under this section, the Attorney General may direct a com-*  
4 *munications service provider, custodian, or an officer, em-*  
5 *ployee, or agent of such service provider or custodian, who*  
6 *has the lawful authority to access the information, facilities,*  
7 *or technical assistance necessary to accomplish such acqui-*  
8 *sition to—*

9               “(1) *furnish the Attorney General forthwith with*  
10 *such information, facilities, or technical assistance in*  
11 *a manner that will protect the secrecy of the acquisi-*  
12 *tion and produce a minimum of interference with the*  
13 *services that provider, custodian, officer, employee, or*  
14 *agent is providing the target of the acquisition; and*

15               “(2) *maintain under security procedures ap-*  
16 *proved by the Attorney General and the Director of*  
17 *National Intelligence any records concerning the ac-*  
18 *quisition or the aid furnished.”.*

19 **SEC. 5. OVERSIGHT OF ACQUISITIONS OF COMMUNICA-**  
20 **TIONS OF NON-UNITED STATES PERSONS LO-**  
21 **CATED OUTSIDE OF THE UNITED STATES.**

22       *The Foreign Intelligence Surveillance Act of 1978 (50*  
23 *U.S.C. 1801 et seq.) is amended by inserting after section*  
24 *105C the following new section:*

1 “OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF  
2 NON-UNITED STATES PERSONS LOCATED OUTSIDE OF  
3 THE UNITED STATES

4 “SEC. 105D. (a) APPLICATION; PROCEDURES; OR-  
5 DERS.—Not later than 7 days after an application is sub-  
6 mitted under section 105B(a) or an order is issued under  
7 section 105B(e), the Director of National Intelligence and  
8 the Attorney General shall submit to the appropriate com-  
9 mittees of Congress—

10 “(1) in the case of an application—

11 “(A) a copy of the application, including  
12 the certification made under section 105B(b)(1);  
13 and

14 “(B) a description of the primary purpose  
15 of the acquisition for which the application is  
16 submitted; and

17 “(2) in the case of an order, a copy of the order,  
18 including the procedures and guidelines referred to in  
19 section 105B(e)(1)(E).

20 “(b) QUARTERLY AUDITS.—

21 “(1) AUDIT.—Not later than 120 days after the  
22 date of the enactment of this section, and every 120  
23 days thereafter until the expiration of all orders  
24 issued under section 105B, the Inspector General of  
25 the Department of Justice shall complete an audit on

1 *the implementation of and compliance with the proce-*  
2 *dures and guidelines referred to in section*  
3 *105B(e)(1)(E) and shall submit to the appropriate*  
4 *committees of Congress, the Attorney General, the Di-*  
5 *rector of National Intelligence, and the court estab-*  
6 *lished under section 103(a) the results of such audit,*  
7 *including, for each order authorizing the acquisition*  
8 *of foreign intelligence under section 105B—*

9 *“(A) the number of targets of an acquisition*  
10 *under such order that were later determined to*  
11 *be located in the United States;*

12 *“(B) the number of persons located in the*  
13 *United States whose communications have been*  
14 *acquired under such order;*

15 *“(C) the number and nature of reports dis-*  
16 *seminated containing information on a United*  
17 *States person that was collected under such*  
18 *order; and*

19 *“(D) the number of applications submitted*  
20 *for approval of electronic surveillance under sec-*  
21 *tion 104 for targets whose communications were*  
22 *acquired under such order.*

23 *“(2) REPORT.—Not later than 30 days after the*  
24 *completion of an audit under paragraph (1), the At-*  
25 *torney General shall submit to the appropriate com-*



1        *mittees of Congress and the court established under*  
2        *section 103(a) a report containing the results of such*  
3        *audit.*

4        *“(c) COMPLIANCE REPORTS.—Not later than 60 days*  
5        *after the date of the enactment of this section, and every*  
6        *120 days thereafter until the expiration of all orders issued*  
7        *under section 105B, the Director of National Intelligence*  
8        *and the Attorney General shall submit to the appropriate*  
9        *committees of Congress and the court established under sec-*  
10       *tion 103(a) a report concerning acquisitions under section*  
11       *105B during the previous 120-day period. Each report sub-*  
12       *mitted under this section shall include a description of any*  
13       *incidents of non-compliance with an order issued under sec-*  
14       *tion 105B(e), including incidents of non-compliance by—*

15                *“(1) an element of the intelligence community*  
16                *with minimization procedures referred to in section*  
17                *105B(e)(1)(E)(i);*

18                *“(2) an element of the intelligence community*  
19                *with procedures referred to in section*  
20                *105B(e)(1)(E)(ii);*

21                *“(3) an element of the intelligence community*  
22                *with guidelines referred to in section*  
23                *105B(e)(1)(E)(iii); and*

24                *“(4) a person directed to provide information,*  
25                *facilities, or technical assistance under such order.*

1       “(d) *REPORT ON EMERGENCY AUTHORITY.—The Di-*  
 2 *rector of National Intelligence and the Attorney General*  
 3 *shall annually submit to the appropriate committees of*  
 4 *Congress a report containing the number of emergency au-*  
 5 *thorizations of acquisitions under section 105C and a de-*  
 6 *scription of any incidents of non-compliance with an emer-*  
 7 *gency authorization under such section.*

8       “(e) *APPROPRIATE COMMITTEES OF CONGRESS DE-*  
 9 *FINED.—In this section, the term ‘appropriate committees*  
 10 *of Congress’ means—*

11               “(1) *the Permanent Select Committee on Intel-*  
 12 *ligence of the House of Representatives;*

13               “(2) *the Select Committee on Intelligence of the*  
 14 *Senate; and*

15               “(3) *the Committees on the Judiciary of the*  
 16 *House of Representatives and the Senate.”*

17 **SEC. 6. FOREIGN INTELLIGENCE SURVEILLANCE COURT EN**  
 18 **BANC.**

19       *Section 103 of the Foreign Intelligence Surveillance*  
 20 *Act of 1978 (50 U.S.C. 1803) is amended by adding at the*  
 21 *end the following new subsection:*

22       “(g) *In any case where the court established under sub-*  
 23 *section (a) or a judge of such court is required to review*  
 24 *a matter under this Act, the court may, at the discretion*

1 *of the court, sit en banc to review such matter and issue*  
2 *any orders related to such matter.”.*

3 **SEC. 7. AUDIT OF WARRANTLESS SURVEILLANCE PRO-**  
4 **GRAMS.**

5 *(a) AUDIT.—Not later than 180 days after the date*  
6 *of the enactment of this Act, the Inspector General of the*  
7 *Department of Justice shall complete an audit of all pro-*  
8 *grams of the Federal Government involving the acquisition*  
9 *of communications conducted without a court order on or*  
10 *after September 11, 2001, including the Terrorist Surveil-*  
11 *lance Program referred to by the President in a radio ad-*  
12 *dress on December 17, 2005. Such audit shall include ac-*  
13 *quiring all documents relevant to such programs, including*  
14 *memoranda concerning the legal authority of a program,*  
15 *authorizations of a program, certifications to telecommuni-*  
16 *cations carriers, and court orders.*

17 *(b) REPORT.—*

18 *(1) IN GENERAL.—Not later than 30 days after*  
19 *the completion of the audit under subsection (a), the*  
20 *Inspector General shall submit to the Permanent Se-*  
21 *lect Committee on Intelligence and the Committee on*  
22 *the Judiciary of the House of Representatives and the*  
23 *Select Committee on Intelligence and the Committee*  
24 *on the Judiciary of the Senate a report containing*

1       *the results of such audit, including all documents ac-*  
2       *quired pursuant to conducting such audit.*

3             (2) *FORM.*—*The report under paragraph (1)*  
4       *shall be submitted in unclassified form, but may in-*  
5       *clude a classified annex.*

6             (c) *EXPEDITED SECURITY CLEARANCE.*—*The Director*  
7       *of National Intelligence shall ensure that the process for the*  
8       *investigation and adjudication of an application by the In-*  
9       *spector General or the appropriate staff of the Office of the*  
10       *Inspector General of the Department of Justice for a secu-*  
11       *rity clearance necessary for the conduct of the audit under*  
12       *subsection (a) is conducted as expeditiously as possible.*

13       **SEC. 8. RECORD-KEEPING SYSTEM ON ACQUISITION OF**  
14                               **COMMUNICATIONS OF UNITED STATES PER-**  
15                               **SONS.**

16             (a) *RECORD-KEEPING SYSTEM.*—*The Director of Na-*  
17       *tional Intelligence and the Attorney General shall jointly*  
18       *develop and maintain a record-keeping system that will*  
19       *keep track of—*

20             (1) *the instances where the identity of a United*  
21       *States person whose communications were acquired*  
22       *was disclosed by an element of the intelligence com-*  
23       *munity (as defined in section 3(4) of the National Se-*  
24       *curity Act of 1947 (50 U.S.C. 401a(4))) that collected*

1        *the communications to other departments or agencies*  
2        *of the United States; and*

3                *(2) the departments and agencies of the Federal*  
4        *Government and persons to whom such identity infor-*  
5        *mation was disclosed.*

6        *(b) REPORT.—The Director of National Intelligence*  
7        *and the Attorney General shall annually submit to the Per-*  
8        *manent Select Committee on Intelligence and the Com-*  
9        *mittee on the Judiciary of the House of Representatives and*  
10       *the Select Committee on Intelligence and the Committee on*  
11       *the Judiciary of the Senate a report on the record-keeping*  
12       *system created under subsection (a), including the number*  
13       *of instances referred to in paragraph (1).*

14       **SEC. 9. AUTHORIZATION FOR INCREASED RESOURCES RE-**  
15                        **LATING TO FOREIGN INTELLIGENCE SUR-**  
16                        **VEILLANCE.**

17        *There are authorized to be appropriated the Depart-*  
18        *ment of Justice, for the activities of the Office of the Inspec-*  
19        *tor General, the Office of Intelligence Policy and Review,*  
20        *and other appropriate elements of the National Security Di-*  
21        *vision, and the National Security Agency such sums as may*  
22        *be necessary to meet the personnel and information tech-*  
23        *nology demands to ensure the timely and efficient proc-*  
24        *essing of—*

1           (1) *applications and other submissions to the*  
2           *court established under section 103(a) of the Foreign*  
3           *Intelligence Surveillance Act of 1978 (50 U.S.C.*  
4           *1803(a));*

5           (2) *the audit and reporting requirements*  
6           *under—*

7                   (A) *section 105D of such Act; and*

8                   (B) *section 7; and*

9           (3) *the record-keeping system and reporting re-*  
10          *quirements under section 8.*

11 **SEC. 10. REITERATION OF FISA AS THE EXCLUSIVE MEANS**  
12                   **BY WHICH ELECTRONIC SURVEILLANCE MAY**  
13                   **BE CONDUCTED FOR GATHERING FOREIGN**  
14                   **INTELLIGENCE INFORMATION.**

15          (a) *EXCLUSIVE MEANS.—Notwithstanding any other*  
16          *provision of law, the Foreign Intelligence Surveillance Act*  
17          *of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means*  
18          *by which electronic surveillance may be conducted for the*  
19          *purpose of gathering foreign intelligence information.*

20          (b) *SPECIFIC AUTHORIZATION REQUIRED FOR EXCEP-*  
21          *TION.—Subsection (a) shall apply until specific statutory*  
22          *authorization for electronic surveillance, other than as an*  
23          *amendment to the Foreign Intelligence Surveillance Act of*  
24          *1978 (50 U.S.C. 1801 et seq.), is enacted. Such specific stat-*

1 *utory authorization shall be the only exception to subsection*  
 2 *(a).*

3 **SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.**

4 *(a) TABLE OF CONTENTS.—The table of contents in the*  
 5 *first section of the Foreign Intelligence Surveillance Act of*  
 6 *1978 (50 U.S.C. 1801 et seq.) is amended by striking the*  
 7 *items relating to sections 105A, 105B, and 105C and insert-*  
 8 *ing the following new items:*

*“Sec. 105A. Clarification of electronic surveillance of non-United States persons outside the United States.*

*“Sec. 105B. Procedure for authorizing acquisitions of communications of non-United States persons located outside the United States.*

*“Sec. 105C. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States.*

*“Sec. 105D. Oversight of acquisitions of communications of non-United States persons located outside of the United States.”.*

9 *(b) SECTION 103(e) OF FISA.—Section 103(e) of the*  
 10 *Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.*  
 11 *1803(e)) is amended—*

12 *(1) in paragraph (1), by striking “105B(h) or”;*

13 *and*

14 *(2) in paragraph (2), by striking “105B(h) or”.*

15 *(c) REPEAL OF CERTAIN PROVISIONS OF THE PRO-*  
 16 *TECT AMERICA ACT OF 2007.—Sections 4 and 6 of the Pro-*  
 17 *tect America Act 2007 (Public Law 110–55) are hereby re-*  
 18 *pealed.*

19 **SEC. 12. SUNSET; TRANSITION PROCEDURES.**

20 *(a) SUNSET OF NEW PROVISIONS.—*

1           (1) *IN GENERAL.*—*Except as provided in para-*  
2 *graph (2), effective on December 31, 2009—*

3           (A) *sections 105A, 105B, 105C, and 105D*  
4 *of the Foreign Intelligence Surveillance Act of*  
5 *1978 (50 U.S.C. 1801 et seq.) are hereby re-*  
6 *pealed; and*

7           (B) *the table of contents in the first section*  
8 *of such Act is amended by striking the items re-*  
9 *lating to sections 105A, 105B, 105C, and 105D.*

10          (2) *ACQUISITIONS AUTHORIZED PRIOR TO SUN-*  
11 *SET.*—*Any authorization or order issued under sec-*  
12 *tion 105B of the Foreign Intelligence Surveillance Act*  
13 *of 1978, as amended by this Act, in effect on Decem-*  
14 *ber 31, 2009, shall continue in effect until the date of*  
15 *the expiration of such authorization or order.*

16          (b) *ACQUISITIONS AUTHORIZED PRIOR TO ENACT-*  
17 *MENT.*—

18           (1) *EFFECT.*—*Notwithstanding the amendments*  
19 *made by this Act, an authorization of the acquisition*  
20 *of foreign intelligence information under section 105B*  
21 *of the Foreign Intelligence Surveillance Act of 1978*  
22 *(50 U.S.C. 1801 et seq.) made before the date of the*  
23 *enactment of this Act shall remain in effect until the*  
24 *date of the expiration of such authorization or the*



1       *date that is 180 days after such date of enactment,*  
2       *whichever is earlier.*

3               (2) *REPORT.*—*Not later than 30 days after the*  
4       *date of the expiration of all authorizations of acquisi-*  
5       *tion of foreign intelligence information under section*  
6       *105B of the Foreign Intelligence Surveillance Act of*  
7       *1978 (as added by Public Law 110–55) made before*  
8       *the date of the enactment of this Act in accordance*  
9       *with paragraph (1), the Director of National Intel-*  
10       *ligence and the Attorney General shall submit to the*  
11       *Permanent Select Committee on Intelligence and the*  
12       *Committee on the Judiciary of the House of Rep-*  
13       *resentatives and the Select Committee on Intelligence*  
14       *and the Committee on the Judiciary of the Senate a*  
15       *report on such authorizations, including—*

16               (A) *the number of targets of an acquisition*  
17       *under section 105B of such Act (as in effect on*  
18       *the day before the date of the enactment of this*  
19       *Act) that were later determined to be located in*  
20       *the United States;*

21               (B) *the number of persons located in the*  
22       *United States whose communications have been*  
23       *acquired under such section;*

1           (C) the number of reports disseminated con-  
2           taining information on a United States person  
3           that was collected under such section;

4           (D) the number of applications submitted  
5           for approval of electronic surveillance under sec-  
6           tion 104 of such Act based upon information col-  
7           lected pursuant to an acquisition authorized  
8           under section 105B of such Act (as in effect on  
9           the day before the date of the enactment of this  
10          Act); and

11          (E) a description of any incidents of non-  
12          compliance with an authorization under such  
13          section, including incidents of non-compliance  
14          by—

15               (i) an element of the intelligence com-  
16               munity with procedures referred to in sub-  
17               section (a)(1) of such section;

18               (ii) an element of the intelligence com-  
19               munity with minimization procedures re-  
20               ferred to in subsection (a)(5) of such section;  
21               and

22               (iii) a person directed to provide infor-  
23               mation, facilities, or technical assistance  
24               under subsection (e) of such section.

1           (3) *INTELLIGENCE COMMUNITY DEFINED.*—*In*  
2           *this subsection, the term “intelligence community”*  
3           *has the meaning given the term in section 3(4) of the*  
4           *National Security Act of 1947 (50 U.S.C. 401a(4)).*

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

6           **(a) SHORT TITLE.**—**This Act may be cited as**  
7 **the “Responsible Electronic Surveillance That**  
8 **is Overseen, Reviewed, and Effective Act of**  
9 **2007” or “RESTORE Act of 2007”.**

10           **(b) TABLE OF CONTENTS.**—**The table of con-**  
11 **tents 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. Procedure for authorizing acquisitions of communications of non-United States persons located outside the United States.**

**Sec. 4. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States.**

**Sec. 5. Oversight of acquisitions of communications of non-United States persons located outside of the United States.**

**Sec. 6. Foreign Intelligence Surveillance Court en banc.**

**Sec. 7. Foreign Intelligence Surveillance Court matters.**

**Sec. 8. Reiteration of chapters 119 and 121 of title 18, United States Code, and Foreign Intelligence Surveillance Act of 1978 as exclusive means by which domestic electronic surveillance may be conducted.**

**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. Additional personnel for preparation and consideration of applications for orders approving electronic surveillance and physical search.**

**Sec. 14. Document management system for applications for orders approving electronic surveillance.**

**Sec. 15. Training of intelligence community personnel in foreign intelligence collection matters.**

**Sec. 16. Information for Congress on the terrorist surveillance program and similar programs.**

**Sec. 17. Technical and conforming amendments.**

**Sec. 18. Sunset; transition procedures.**

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

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

7 **“CLARIFICATION OF ELECTRONIC SURVEILLANCE**  
8 **OF NON-UNITED STATES PERSONS OUTSIDE**  
9 **THE UNITED STATES**

10 **“SEC. 105A. (a) FOREIGN TO FOREIGN COM-**  
11 **MUNICATIONS.—Notwithstanding any other**  
12 **provision of this Act, a court order is not re-**  
13 **quired for the acquisition of the contents of**  
14 **any communication between persons that are**  
15 **not United States persons and are not located**  
16 **within the United States for the purpose of**  
17 **collecting foreign intelligence information,**  
18 **without respect to whether the communica-**  
19 **tion passes through the United States or the**  
20 **surveillance device is located within the**  
21 **United States.**

1       **“(b) COMMUNICATIONS OF NON-UNITED**  
2 **STATES PERSONS OUTSIDE OF THE UNITED**  
3 **STATES.—Notwithstanding any other provi-**  
4 **sion of this Act other than subsection (a), elec-**  
5 **tronic surveillance that is directed at the ac-**  
6 **quisition of the communications of a person**  
7 **that is reasonably believed to be located out-**  
8 **side the United States and not a United States**  
9 **person for the purpose of collecting foreign**  
10 **intelligence information (as defined in para-**  
11 **graph (1) or (2)(A) of section 101(e)) by tar-**  
12 **geting that person shall be conducted pursu-**  
13 **ant to—**

14               **“(1) an order approved in accordance**  
15               **with section 105 or 105B; or**

16               **“(2) an emergency authorization in**  
17               **accordance with section 105 or 105C.”.**

18 **SEC. 3. PROCEDURE FOR AUTHORIZING ACQUISITIONS OF**  
19               **COMMUNICATIONS OF NON-UNITED STATES**  
20               **PERSONS LOCATED OUTSIDE THE UNITED**  
21               **STATES.**

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

1 **“PROCEDURE FOR AUTHORIZING ACQUISITIONS OF**  
2 **COMMUNICATIONS OF NON-UNITED STATES**  
3 **PERSONS LOCATED OUTSIDE THE UNITED**  
4 **STATES**

5 **“SEC. 105B. (a) IN GENERAL.—Notwith-**  
6 **standing any other provision of this Act, the**  
7 **Director of National Intelligence and the At-**  
8 **torney General may jointly apply to a judge**  
9 **of the court established under section 103(a)**  
10 **for an ex parte order, or the extension of an**  
11 **order, authorizing for a period of up to one**  
12 **year the acquisition of communications of**  
13 **persons that are reasonably believed to be lo-**  
14 **cated outside the United States and not**  
15 **United States persons for the purpose of col-**  
16 **lecting foreign intelligence information (as**  
17 **defined in paragraph (1) or (2)(A) of section**  
18 **101(e)) by targeting those persons.**

19 **“(b) APPLICATION INCLUSIONS.—An applica-**  
20 **tion under subsection (a) shall include—**

21 **“(1) a certification by the Director of**  
22 **National Intelligence and the Attorney**  
23 **General that—**

24 **“(A) the targets of the acquisition**  
25 **of foreign intelligence information**

1 under this section are persons rea-  
2 sonably believed to be located outside  
3 the United States;

4 “(B) the targets of the acquisition  
5 are reasonably believed to be persons  
6 that are not United States persons;

7 “(C) the acquisition involves ob-  
8 taining the foreign intelligence infor-  
9 mation from, or with the assistance  
10 of, a communications service pro-  
11 vider or custodian, or an officer, em-  
12 ployee, or agent of such service pro-  
13 vider or custodian, who has author-  
14 ized access to the communications to  
15 be acquired, either as they are trans-  
16 mitted or while they are stored, or  
17 equipment that is being or may be  
18 used to transmit or store such com-  
19 munications; and

20 “(D) a significant purpose of the  
21 acquisition is to obtain foreign intel-  
22 ligence information (as defined in  
23 paragraph (1) or (2)(A) of section  
24 101(e)); and

25 “(2) a description of—

1           “(A) the procedures that will be  
2 used by the Director of National In-  
3 telligence and the Attorney General  
4 during the duration of the order to  
5 determine that there is a reasonable  
6 belief that the targets of the acquisi-  
7 tion are persons that are located out-  
8 side the United States and not United  
9 States persons;

10           “(B) the nature of the information  
11 sought, including the identity of any  
12 foreign power against whom the ac-  
13 quisition will be directed;

14           “(C) minimization procedures  
15 that meet the definition of minimiza-  
16 tion procedures under section 101(h)  
17 to be used with respect to such acqui-  
18 sition; and

19           “(D) the guidelines that will be  
20 used to ensure that an application is  
21 filed under section 104, if otherwise  
22 required by this Act, when a signifi-  
23 cant purpose of an acquisition is to  
24 acquire the communications of a spe-  
25 cific United States person reasonably



1           **believed to be located in the United**  
2           **States.**

3           **“(c) SPECIFIC PLACE NOT REQUIRED.—An**  
4 **application under subsection (a) is not re-**  
5 **quired to identify the specific facilities,**  
6 **places, premises, or property at which the ac-**  
7 **quisition of foreign intelligence information**  
8 **will be directed.**

9           **“(d) REVIEW OF APPLICATION.—Not later**  
10 **than 15 days after a judge receives an applica-**  
11 **tion under subsection (a), the judge shall re-**  
12 **view such application and shall approve the**  
13 **application if the judge finds that—**

14           **“(1) the proposed procedures referred**  
15 **to in subsection (b)(2)(A) are reasonably**  
16 **designed to determine whether the tar-**  
17 **gets of the acquisition are located outside**  
18 **the United States and not United States**  
19 **persons;**

20           **“(2) the proposed minimization proce-**  
21 **dures referred to in subsection (b)(2)(C)**  
22 **meet the definition of minimization pro-**  
23 **cedures under section 101(h); and**

24           **“(3) the guidelines referred to in sub-**  
25 **section (b)(2)(D) are reasonably designed**

1 to ensure that an application is filed  
2 under section 104, if otherwise required  
3 by this Act, when a significant purpose of  
4 an acquisition is to acquire the commu-  
5 nications of a specific United States per-  
6 son reasonably believed to be located in  
7 the United States.

8 **“(e) ORDER.—**

9 **“(1) IN GENERAL.—A judge approving**  
10 **an application under subsection (d) shall**  
11 **issue an order—**

12 **“(A) authorizing the acquisition of**  
13 **the contents of the communications**  
14 **as requested, or as modified by the**  
15 **judge;**

16 **“(B) requiring the communica-**  
17 **tions service provider or custodian,**  
18 **or officer, employee, or agent of such**  
19 **service provider or custodian, who**  
20 **has authorized access to the informa-**  
21 **tion, facilities, or technical assistance**  
22 **necessary to accomplish the acquisi-**  
23 **tion to provide such information, fa-**  
24 **cilities, or technical assistance nec-**  
25 **essary to accomplish the acquisition**

1 and to produce a minimum of inter-  
2 ference with the services that pro-  
3 vider, custodian, officer, employee, or  
4 agent is providing the target of the  
5 acquisition;

6 “(C) requiring such communica-  
7 tions service provider, custodian, offi-  
8 cer, employee, or agent, upon the re-  
9 quest of the applicant, to maintain  
10 under security procedures approved  
11 by the Attorney General and the Di-  
12 rector of National Intelligence any  
13 records concerning the acquisition or  
14 the aid furnished;

15 “(D) directing the Federal Gov-  
16 ernment to—

17 “(i) compensate, at the pre-  
18 vailing rate, a person for pro-  
19 viding information, facilities, or  
20 assistance pursuant to such  
21 order; and

22 “(ii) provide a copy of the por-  
23 tion of the order directing the  
24 person to comply with the order  
25 to such person; and

1           **“(E) directing the applicant to fol-**  
2           **low—**

3                   **“(i) the procedures referred to**  
4                   **in subsection (b)(2)(A) as pro-**  
5                   **posed or as modified by the judge;**

6                   **“(ii) the minimization proce-**  
7                   **dures referred to in subsection**  
8                   **(b)(2)(C) as proposed or as modi-**  
9                   **fied by the judge; and**

10                   **“(iii) the guidelines referred**  
11                   **to in subsection (b)(2)(D) as pro-**  
12                   **posed or as modified by the judge.**

13           **“(2) FAILURE TO COMPLY.—If a person**  
14           **fails to comply with an order issued**  
15           **under paragraph (1), the Attorney Gen-**  
16           **eral may invoke the aid of the court es-**  
17           **tablished under section 103(a) to compel**  
18           **compliance with the order. Failure to**  
19           **obey an order of the court may be pun-**  
20           **ished by the court as contempt of court.**  
21           **Any process under this section may be**  
22           **served in any judicial district in which**  
23           **the person may be found.**

24                   **“(3) LIABILITY OF ORDER.—Notwith-**  
25                   **standing any other law, no cause of ac-**

1        **tion shall lie in any court against any**  
2        **person for providing any information, fa-**  
3        **cilities, or assistance in accordance with**  
4        **an order issued under this subsection.**

5            **“(4) RETENTION OF ORDER.—The Direc-**  
6        **tor of National Intelligence and the court**  
7        **established under subsection 103(a) shall**  
8        **retain an order issued under this section**  
9        **for a period of not less than 10 years**  
10       **from the date on which such order is**  
11       **issued.**

12           **“(5) ASSESSMENT OF COMPLIANCE WITH**  
13       **COURT ORDER.—At or before the end of the**  
14       **period of time for which an acquisition is**  
15       **approved by an order or an extension**  
16       **under this section, the court established**  
17       **under section 103(a) shall, not less fre-**  
18       **quently than once each quarter, assess**  
19       **compliance with the procedures and**  
20       **guidelines referred to in paragraph (1)(E)**  
21       **and review the circumstances under**  
22       **which information concerning United**  
23       **States persons was acquired, retained, or**  
24       **disseminated.”.**

1 **SEC. 4. EMERGENCY AUTHORIZATION OF ACQUISITIONS OF**  
2 **COMMUNICATIONS OF NON-UNITED STATES**  
3 **PERSONS LOCATED OUTSIDE THE UNITED**  
4 **STATES.**

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

8 **“EMERGENCY AUTHORIZATION OF ACQUISITIONS**  
9 **OF COMMUNICATIONS OF NON-UNITED STATES**  
10 **PERSONS LOCATED OUTSIDE THE UNITED**  
11 **STATES**

12 **“SEC. 105C. (a) APPLICATION AFTER EMER-**  
13 **GENCY AUTHORIZATION.—As soon as is prac-**  
14 **ticable, but not more than 7 days after the Di-**  
15 **rector of National Intelligence and the Attor-**  
16 **ney General authorize an acquisition under**  
17 **this section, an application for an order au-**  
18 **thorizing the acquisition in accordance with**  
19 **section 105B shall be submitted to the judge**  
20 **referred to in subsection (b)(2) of this section**  
21 **for approval of the acquisition in accordance**  
22 **with section 105B.**

23 **“(b) EMERGENCY AUTHORIZATION.—Not-**  
24 **withstanding any other provision of this Act,**  
25 **the Director of National Intelligence and the**  
26 **Attorney General may jointly authorize the**

1 **emergency acquisition of foreign intelligence**  
2 **information for a period of not more than 45**  
3 **days if—**

4 **“(1) the Director of National Intel-**  
5 **ligence and the Attorney General jointly**  
6 **determine that—**

7 **“(A) an emergency situation exists**  
8 **with respect to an authorization for**  
9 **an acquisition under section 105B be-**  
10 **fore an order approving the acquisi-**  
11 **tion under such section can with due**  
12 **diligence be obtained;**

13 **“(B) the targets of the acquisition**  
14 **of foreign intelligence information**  
15 **under this section are persons rea-**  
16 **sonably believed to be located outside**  
17 **the United States;**

18 **“(C) the targets of the acquisition**  
19 **are reasonably believed to be persons**  
20 **that are not United States persons;**

21 **“(D) there are reasonable proce-**  
22 **dures in place for determining that**  
23 **the acquisition of foreign intelligence**  
24 **information under this section will be**  
25 **acquired by targeting only persons**

1           **that are reasonably believed to be lo-**  
2           **cated outside the United States and**  
3           **not United States persons;**

4           **“(E) the acquisition involves ob-**  
5           **taining the foreign intelligence infor-**  
6           **mation from, or with the assistance**  
7           **of, a communications service pro-**  
8           **vider or custodian, or an officer, em-**  
9           **ployee, or agent of such service pro-**  
10          **vider or custodian, who has author-**  
11          **ized access to the communications to**  
12          **be acquired, either as they are trans-**  
13          **mitted or while they are stored, or**  
14          **equipment that is being or may be**  
15          **used to transmit or store such com-**  
16          **munications;**

17          **“(F) a significant purpose of the**  
18          **acquisition is to obtain foreign intel-**  
19          **ligence information (as defined in**  
20          **paragraph (1) or (2)(A) of section**  
21          **101(e));**

22          **“(G) minimization procedures to**  
23          **be used with respect to such acquisi-**  
24          **tion activity meet the definition of**



1           **minimization procedures under sec-**  
2           **tion 101(h); and**

3           **“(H) there are guidelines that will**  
4           **be used to ensure that an application**  
5           **is filed under section 104, if otherwise**  
6           **required by this Act, when a signifi-**  
7           **cant purpose of an acquisition is to**  
8           **acquire the communications of a spe-**  
9           **cific United States person reasonably**  
10          **believed to be located in the United**  
11          **States; and**

12          **“(2) the Director of National Intel-**  
13          **ligence and the Attorney General, or**  
14          **their designees, inform a judge having ju-**  
15          **risdiction to approve an acquisition**  
16          **under section 105B at the time of the au-**  
17          **thorization under this section that the**  
18          **decision has been made to acquire for-**  
19          **eign intelligence information.**

20          **“(c) INFORMATION, FACILITIES, AND TECH-**  
21          **NICAL ASSISTANCE.—Pursuant to an authoriza-**  
22          **tion of an acquisition under this section, the**  
23          **Attorney General may direct a communica-**  
24          **tions service provider, custodian, or an offi-**  
25          **cer, employee, or agent of such service pro-**

1 **vider or custodian, who has the lawful author-**  
2 **ity to access the information, facilities, or**  
3 **technical assistance necessary to accomplish**  
4 **such acquisition to—**

5 **“(1) furnish the Attorney General**  
6 **forthwith with such information, facili-**  
7 **ties, or technical assistance in a manner**  
8 **that will protect the secrecy of the acqui-**  
9 **sition and produce a minimum of inter-**  
10 **ference with the services that provider,**  
11 **custodian, officer, employee, or agent is**  
12 **providing the target of the acquisition;**  
13 **and**

14 **“(2) maintain under security proce-**  
15 **dures approved by the Attorney General**  
16 **and the Director of National Intelligence**  
17 **any records concerning the acquisition or**  
18 **the aid furnished.”.**

19 **SEC. 5. OVERSIGHT OF ACQUISITIONS OF COMMUNICA-**  
20 **TIONS OF NON-UNITED STATES PERSONS LO-**  
21 **CATED OUTSIDE OF THE UNITED STATES.**

22 **The Foreign Intelligence Surveillance Act**  
23 **of 1978 (50 U.S.C. 1801 et seq.) is amended by**  
24 **inserting after section 105C the following new**  
25 **section:**

1 **“OVERSIGHT OF ACQUISITIONS OF COMMUNICA-**  
2 **TIONS OF NON-UNITED STATES PERSONS LO-**  
3 **CATED OUTSIDE OF THE UNITED STATES**

4 **“SEC. 105D. (a) APPLICATION; PROCEDURES;**  
5 **ORDERS.—Not later than 7 days after an appli-**  
6 **cation is submitted under section 105B(a) or**  
7 **an order is issued under section 105B(e), the**  
8 **Director of National Intelligence and the At-**  
9 **torney General shall submit to the appro-**  
10 **priate committees of Congress—**

11 **“(1) in the case of an application, a**  
12 **copy of the application, including the cer-**  
13 **tification made under section 105B(b)(1);**  
14 **and**

15 **“(2) in the case of an order, a copy of**  
16 **the order, including the procedures and**  
17 **guidelines referred to in section**  
18 **105B(e)(1)(E).**

19 **“(b) QUARTERLY AUDITS.—**

20 **“(1) AUDIT.—Not later than 120 days**  
21 **after the date of the enactment of this**  
22 **section, and every 120 days thereafter**  
23 **until the expiration of all orders issued**  
24 **under section 105B, the Inspector Gen-**  
25 **eral of the Department of Justice shall**

1       **complete an audit on the implementation**  
2       **of and compliance with the procedures**  
3       **and guidelines referred to in section**  
4       **105B(e)(1)(E) and shall submit to the ap-**  
5       **propriate committees of Congress, the At-**  
6       **torney General, the Director of National**  
7       **Intelligence, and the court established**  
8       **under section 103(a) the results of such**  
9       **audit, including, for each order author-**  
10       **izing the acquisition of foreign intel-**  
11       **ligence under section 105B—**

12               **“(A) the number of targets of an**  
13               **acquisition under such order that**  
14               **were later determined to be located**  
15               **in the United States;**

16               **“(B) the number of persons lo-**  
17               **cated in the United States whose**  
18               **communications have been acquired**  
19               **under such order;**

20               **“(C) the number and nature of re-**  
21               **ports disseminated containing infor-**  
22               **mation on a United States person**  
23               **that was collected under such order;**  
24               **and**

1           **“(D) the number of applications**  
2           **submitted for approval of electronic**  
3           **surveillance under section 104 for**  
4           **targets whose communications were**  
5           **acquired under such order.**

6           **“(2) REPORT.—Not later than 30 days**  
7           **after the completion of an audit under**  
8           **paragraph (1), the Attorney General shall**  
9           **submit to the appropriate committees of**  
10          **Congress and the court established under**  
11          **section 103(a) a report containing the re-**  
12          **sults of such audit.**

13          **“(c) COMPLIANCE REPORTS.—Not later than**  
14          **60 days after the date of the enactment of this**  
15          **section, and every 120 days thereafter until**  
16          **the expiration of all orders issued under sec-**  
17          **tion 105B, the Director of National Intel-**  
18          **ligence and the Attorney General shall submit**  
19          **to the appropriate committees of Congress**  
20          **and the court established under section 103(a)**  
21          **a report concerning acquisitions under sec-**  
22          **tion 105B during the previous 120-day period.**  
23          **Each report submitted under this section**  
24          **shall include a description of any incidents of**  
25          **non-compliance with an order issued under**

1 section 105B(e), including incidents of non-  
2 compliance by—

3 “(1) an element of the intelligence  
4 community with minimization proce-  
5 dures referred to in section  
6 105B(e)(1)(E)(i);

7 “(2) an element of the intelligence  
8 community with procedures referred to  
9 in section 105B(e)(1)(E)(ii);

10 “(3) an element of the intelligence  
11 community with guidelines referred to in  
12 section 105B(e)(1)(E)(iii); and

13 “(4) a person directed to provide in-  
14 formation, facilities, or technical assist-  
15 ance under such order.

16 “(d) REPORT ON EMERGENCY AUTHORITY.—  
17 The Director of National Intelligence and the  
18 Attorney General shall annually submit to the  
19 appropriate committees of Congress a report  
20 containing the number of emergency author-  
21 izations of acquisitions under section 105C  
22 and a description of any incidents of non-com-  
23 pliance with an emergency authorization  
24 under such section.

1       “(e) **APPROPRIATE COMMITTEES OF CON-**  
2 **GRESS DEFINED.**—In this section, the term ‘ap-  
3 **propriate committees of Congress’ means—**

4               “(1) **the Permanent Select Committee**  
5 **on Intelligence of the House of Rep-**  
6 **resentatives;**

7               “(2) **the Select Committee on Intel-**  
8 **ligence of the Senate; and**

9               “(3) **the Committees on the Judiciary**  
10 **of the House of Representatives and the**  
11 **Senate.”.**

12 **SEC. 6. FOREIGN INTELLIGENCE SURVEILLANCE COURT EN**

13               **BANC.**

14       **Section 103 of the Foreign Intelligence**  
15 **Surveillance Act of 1978 (50 U.S.C. 1803) is**  
16 **amended by adding at the end the following**  
17 **new subsection:**

18       “(g) **In any case where the court estab-**  
19 **lished under subsection (a) or a judge of such**  
20 **court is required to review a matter under**  
21 **this Act, the court may, at the discretion of**  
22 **the court, sit en banc to review such matter**  
23 **and issue any orders related to such matter.”.**

1 SEC. 7. FOREIGN INTELLIGENCE SURVEILLANCE COURT  
2 MATTERS.

3 (a) **AUTHORITY FOR ADDITIONAL JUDGES.—**  
4 **Section 103(a) of the Foreign Intelligence Sur-**  
5 **veillance Act of 1978 (50 U.S.C. 1803(a)) is**  
6 **amended—**

7 (1) **by inserting “(1)” after “(a)”;**

8 (2) **in paragraph (1) (as so des-**  
9 **ignated)—**

10 (A) **by striking “11” and inserting**  
11 **“15”; and**

12 (B) **by inserting “at least” before**  
13 **“seven of the United States judicial**  
14 **circuits”; and**

15 (3) **by designating the second sen-**  
16 **tence as paragraph (3) and indenting**  
17 **such paragraph, as so designated.**

18 (b) **CONSIDERATION OF EMERGENCY APPLICA-**  
19 **TIONS.—Such section is further amended by**  
20 **inserting after paragraph (1) (as designated**  
21 **by subsection (a)(1)) the following new para-**  
22 **graph:**

23 **“(2) A judge of the court shall make a de-**  
24 **termination to approve, deny, or modify an**  
25 **application submitted pursuant to section**  
26 **105(f), section 304(e), or section 403 not later**



1 **than 24 hours after the receipt of such appli-**  
2 **cation by the court.”.**

3 **SEC. 8. REITERATION OF CHAPTERS 119 AND 121 OF TITLE**  
4 **18, UNITED STATES CODE, AND FOREIGN IN-**  
5 **TELLIGENCE SURVEILLANCE ACT OF 1978 AS**  
6 **EXCLUSIVE MEANS BY WHICH DOMESTIC**  
7 **ELECTRONIC SURVEILLANCE MAY BE CON-**  
8 **DUCTED.**

9 **(a) EXCLUSIVE MEANS.—Section 2511(2)(f)**  
10 **of title 18, United States Code, is amended by**  
11 **striking “and procedures in this chapter” and**  
12 **all that follows and inserting “and procedures**  
13 **in this chapter, chapters 121 and 206, and the**  
14 **Foreign Intelligence Surveillance Act of 1978**  
15 **(50 U.S.C. 1801 et seq.) shall be the exclusive**  
16 **means by which electronic surveillance (as**  
17 **defined in section 101(f) of such Act), the**  
18 **interception of domestic wire, oral, and elec-**  
19 **tronic communications, the accessing of**  
20 **stored electronic communications, and the in-**  
21 **stallation and use of pen registers and trap**  
22 **and trace devices may be conducted.”.**

23 **(b) AMENDMENT TO FOREIGN INTELLIGENCE**  
24 **SURVEILLANCE ACT OF 1978.—**

1           **(1) SECTION 109(a).**—Section 109(a) of  
2           **the Foreign Intelligence Surveillance Act**  
3           **of 1978 (50 U.S.C. 1809(a)) is amended by**  
4           **striking “authorized by statute” each**  
5           **place it appears and inserting “author-**  
6           **ized by title I or IV of the Foreign Intel-**  
7           **ligence Surveillance Act (50 U.S.C. 1801-**  
8           **1811 and 1841–1846), or chapter 119, 121,**  
9           **or 206 of title 18, United States Code”.**

10           **(2) SECTION 307(a).**—Section 307(a)(1)  
11           **of the Foreign Intelligence Surveillance**  
12           **Act of 1978 (50 U.S.C. 1827(a)) is amended**  
13           **by striking “as authorized by statute”**  
14           **and inserting “as authorized by title III**  
15           **of the Foreign Intelligence Surveillance**  
16           **Act (50 U.S.C. 1821–1829) or Rule 41 of the**  
17           **Federal Rules of Criminal Procedure or**  
18           **any other warrant issued by a court of**  
19           **competent jurisdiction”.**

20           **(c) AMENDMENT TO TITLE 18, UNITED STATES**  
21           **CODE.**—Section 2511(2)(a)(ii)(B) of title 18,  
22           **United States Code, is amended by striking**  
23           **“statutory requirements” and inserting “re-**  
24           **quirements under this chapter, chapters 121**  
25           **and 206, and titles I and IV of the Foreign In-**

1 **telligence Surveillance Act of 1978 (50 U.S.C.**  
2 **1801 et seq.)”.**

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

6 **Sections 111, 309, and 404 of the Foreign**  
7 **Intelligence Surveillance Act of 1978 (50**  
8 **U.S.C. 1811, 1829, and 1844) are amended by**  
9 **striking “Congress” and inserting “Congress**  
10 **or an authorization for the use of military**  
11 **force described in section 2(c)(2) of the War**  
12 **Powers Resolution (50 U.S.C. 1541(c)(2)) if**  
13 **such authorization contains a specific author-**  
14 **ization for foreign intelligence collection**  
15 **under this section, or if the Congress is un-**  
16 **able to convene because of an attack upon the**  
17 **United States”.**

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

20 **(a) AUDIT.—Not later than 180 days after**  
21 **the date of the enactment of this Act, the In-**  
22 **pector General of the Department of Justice**  
23 **shall complete an audit of all programs of the**  
24 **Federal Government involving the acquisi-**  
25 **tion of communications conducted without a**

1 court order on or after September 11, 2001, in-  
2 cluding the Terrorist Surveillance Program  
3 referred to by the President in a radio ad-  
4 dress on December 17, 2005. Such audit shall  
5 include acquiring all documents relevant to  
6 such programs, including memoranda con-  
7 cerning the legal authority of a program, au-  
8 thorizations of a program, certifications to  
9 telecommunications carriers, and court or-  
10 ders.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 30  
13 days after the completion of the audit  
14 under subsection (a), the Inspector Gen-  
15 eral shall submit to the Permanent Select  
16 Committee on Intelligence and the Com-  
17 mittee on the Judiciary of the House of  
18 Representatives and the Select Com-  
19 mittee on Intelligence and the Committee  
20 on the Judiciary of the Senate a report  
21 containing the results of such audit, in-  
22 cluding all documents acquired pursuant  
23 to conducting such audit.

24 (2) FORM.—The report under para-  
25 graph (1) shall be submitted in unclassi-

1       **fied form, but may include a classified**  
2       **annex.**

3       **(c) EXPEDITED SECURITY CLEARANCE.—The**  
4       **Director of National Intelligence shall ensure**  
5       **that the process for the investigation and ad-**  
6       **judication of an application by the Inspector**  
7       **General or the appropriate staff of the Office**  
8       **of the Inspector General of the Department of**  
9       **Justice for a security clearance necessary for**  
10      **the conduct of the audit under subsection (a)**  
11      **is conducted as expeditiously as possible.**

12      **SEC. 11. RECORD-KEEPING SYSTEM ON ACQUISITION OF**  
13                      **COMMUNICATIONS OF UNITED STATES PER-**  
14                      **SONS.**

15      **(a) RECORD-KEEPING SYSTEM.—The Direc-**  
16      **tor of National Intelligence and the Attorney**  
17      **General shall jointly develop and maintain a**  
18      **record-keeping system that will keep track**  
19      **of—**

20              **(1) the instances where the identity of**  
21              **a United States person whose commu-**  
22              **nications were acquired was disclosed by**  
23              **an element of the intelligence community**  
24              **(as defined in section 3(4) of the National**  
25              **Security Act of 1947 (50 U.S.C. 401a(4)))**

1       that collected the communications to  
2       other departments or agencies of the  
3       United States; and

4             (2) the departments and agencies of  
5       the Federal Government and persons to  
6       whom such identity information was dis-  
7       closed.

8       **(b) REPORT.**—The Director of National In-  
9       telligence and the Attorney General shall an-  
10      nually submit to the Permanent Select Com-  
11      mittee on Intelligence and the Committee on  
12      the Judiciary of the House of Representatives  
13      and the Select Committee on Intelligence and  
14      the Committee on the Judiciary of the Senate  
15      a report on the record-keeping system created  
16      under subsection (a), including the number of  
17      instances referred to in paragraph (1).

18      **SEC. 12. AUTHORIZATION FOR INCREASED RESOURCES RE-**  
19                            **LATING TO FOREIGN INTELLIGENCE SUR-**  
20                            **VEILLANCE.**

21             There are authorized to be appropriated  
22      the Department of Justice, for the activities of  
23      the Office of the Inspector General, the Office  
24      of Intelligence Policy and Review, and other  
25      appropriate elements of the National Security

1 **Division, and the National Security Agency**  
2 **such sums as may be necessary to meet the**  
3 **personnel and information technology de-**  
4 **mands to ensure the timely and efficient proc-**  
5 **essing of—**

6 **(1) applications and other submis-**  
7 **sions to the court established under sec-**  
8 **tion 103(a) of the Foreign Intelligence**  
9 **Surveillance Act of 1978 (50 U.S.C.**  
10 **1803(a));**

11 **(2) the audit and reporting require-**  
12 **ments under—**

13 **(A) section 105D of such Act; and**

14 **(B) section 10; and**

15 **(3) the record-keeping system and re-**  
16 **porting requirements under section 11.**

17 **SEC. 13. ADDITIONAL PERSONNEL FOR PREPARATION AND**  
18 **CONSIDERATION OF APPLICATIONS FOR OR-**  
19 **DERS APPROVING ELECTRONIC SURVEIL-**  
20 **LANCE AND PHYSICAL SEARCH.**

21 **(a) OFFICE OF INTELLIGENCE OF THE NA-**  
22 **TIONAL SECURITY DIVISION.—**

23 **(1) ADDITIONAL PERSONNEL.—The Of-**  
24 **fice of Intelligence of the National Secu-**  
25 **urity Division of the Department of Justice**

1 is hereby authorized such additional per-  
2 sonnel as may be necessary to carry out  
3 the prompt and timely preparation, modi-  
4 fication, and review of applications under  
5 Foreign Intelligence Surveillance Act of  
6 1978 for orders under that Act for foreign  
7 intelligence purposes.

8 (2) ASSIGNMENT.—The Attorney Gen-  
9 eral shall assign personnel authorized by  
10 paragraph (1) to and among appropriate  
11 offices of the intelligence community (as  
12 defined in section 3(4) of the National Se-  
13 curity Act of 1947 (50 U.S.C. 401a(4))) in  
14 order that such personnel may directly  
15 assist personnel of the Intelligence Com-  
16 munity in preparing applications de-  
17 scribed in that paragraph and conduct  
18 prompt and effective oversight of the ac-  
19 tivities of such agencies under Foreign  
20 Intelligence Surveillance Court orders.

21 (b) DIRECTOR OF NATIONAL INTELLIGENCE.—

22 (1) ADDITIONAL LEGAL AND OTHER PER-  
23 SONNEL.—The Director of National Intel-  
24 ligence is hereby authorized such addi-  
25 tional legal and other personnel as may



1       **be necessary to carry out the prompt and**  
2       **timely preparation of applications under**  
3       **the Foreign Intelligence Surveillance Act**  
4       **of 1978 for orders under that Act approv-**  
5       **ing electronic surveillance for foreign in-**  
6       **telligence purposes.**

7               **(2) ASSIGNMENT.—The Director of Na-**  
8       **tional Intelligence shall assign personnel**  
9       **authorized by paragraph (1) to and**  
10       **among the intelligence community (as de-**  
11       **finied in section 3(4) of the National Secu-**  
12       **urity Act of 1947 (50 U.S.C. 401a(4))), in-**  
13       **cluding the field offices of the Federal**  
14       **Bureau of Investigation, in order that**  
15       **such personnel may directly assist per-**  
16       **sonnel of the intelligence community in**  
17       **preparing applications described in that**  
18       **paragraph.**

19               **(c) ADDITIONAL LEGAL AND OTHER PER-**  
20       **SONNEL FOR FOREIGN INTELLIGENCE SURVEIL-**  
21       **LANCE COURT.—There is hereby authorized for**  
22       **the court established under section 103(a) of**  
23       **the Foreign Intelligence Surveillance Act of**  
24       **1978 (50 U.S.C. 1803(a)) such additional staff**  
25       **personnel as may be necessary to facilitate**

1 the prompt and timely consideration by that  
2 court of applications under such Act for or-  
3 ders under such Act approving electronic sur-  
4 veillance for foreign intelligence purposes.  
5 Personnel authorized by this paragraph shall  
6 perform such duties relating to the consider-  
7 ation of such applications as that court shall  
8 direct.

9 (d) SUPPLEMENT NOT SUPPLANT.—The per-  
10 sonnel authorized by this section are in addi-  
11 tion to any other personnel authorized by  
12 law.

13 SEC. 14. DOCUMENT MANAGEMENT SYSTEM FOR APPLICA-  
14 TIONS FOR ORDERS APPROVING ELEC-  
15 TRONIC SURVEILLANCE.

16 (a) SYSTEM REQUIRED.—The Attorney Gen-  
17 eral shall, in consultation with the Director of  
18 National Intelligence and the Foreign Intel-  
19 ligence Surveillance Court, develop and im-  
20 plement a secure, classified document man-  
21 agement system that permits the prompt  
22 preparation, modification, and review by ap-  
23 propriate personnel of the Department of Jus-  
24 tice, the Federal Bureau of Investigation, the  
25 National Security Agency, and other applica-

1 **ble elements of the United States Government**  
2 **of applications under the Foreign Intelligence**  
3 **Surveillance Act of 1978 (50 U.S.C. 1804) be-**  
4 **fore their submission to the Foreign Intel-**  
5 **ligence Surveillance Court.**

6 **(b) SCOPE OF SYSTEM.—The document man-**  
7 **agement system required by subsection (a)**  
8 **shall—**

9 **(1) permit and facilitate the prompt**  
10 **submittal of applications to the Foreign**  
11 **Intelligence Surveillance Court under the**  
12 **Foreign Intelligence Surveillance Act of**  
13 **1978; and**

14 **(2) permit and facilitate the prompt**  
15 **transmittal of rulings of the Foreign In-**  
16 **telligence Surveillance Court to per-**  
17 **sonnel submitting applications described**  
18 **in paragraph (1), and provide for the se-**  
19 **ecure electronic storage and retrieval of**  
20 **all such applications and related matters**  
21 **with the court and for their secure trans-**  
22 **mission to the National Archives and**  
23 **Records Administration.**

1 SEC. 15. TRAINING OF INTELLIGENCE COMMUNITY PER-  
2 SONNEL IN FOREIGN INTELLIGENCE COL-  
3 LECTION MATTERS.

4 **The Director of National Intelligence**  
5 **shall, in consultation with the Attorney Gen-**  
6 **eral—**

7 (1) **develop regulations to establish**  
8 **procedures for conducting and seeking**  
9 **approval of electronic surveillance, phys-**  
10 **ical search, and the installation and use**  
11 **of pen registers and trap and trace de-**  
12 **vices on an emergency basis, and for pre-**  
13 **paring and properly submitting and re-**  
14 **ceiving applications and orders under**  
15 **the Foreign Intelligence Surveillance Act**  
16 **of 1978; and**

17 (2) **prescribe related training on the**  
18 **Foreign Intelligence Surveillance Act of**  
19 **1978 and related legal matters for the**  
20 **personnel of the applicable agencies of**  
21 **the intelligence community (as defined in**  
22 **section 3(4) of the National Security Act**  
23 **of 1947 (50 U.S.C. 401a(4))).**

1 **SEC. 16. INFORMATION FOR CONGRESS ON THE TERRORIST**  
2 **SURVEILLANCE PROGRAM AND SIMILAR PRO-**  
3 **GRAMS.**

4 **As soon as practicable after the date of**  
5 **the enactment of this Act, but not later than**  
6 **seven days after such date, the President**  
7 **shall fully inform each member of the Perma-**  
8 **nent Select Committee on Intelligence of the**  
9 **House of Representatives and the Select Com-**  
10 **mittee on Intelligence of the Senate on the fol-**  
11 **lowing:**

12 **(1) The Terrorist Surveillance Pro-**  
13 **gram of the National Security Agency.**

14 **(2) Any program in existence from**  
15 **September 11, 2001, until the effective**  
16 **date of this Act that involves, whether in**  
17 **part or in whole, the electronic surveil-**  
18 **lance of United States persons in the**  
19 **United States for foreign intelligence or**  
20 **other purposes, and which is conducted**  
21 **by any department, agency, or other ele-**  
22 **ment of the United States Government, or**  
23 **by any entity at the direction of a depart-**  
24 **ment, agency, or other element of the**  
25 **United States Government, without fully**  
26 **complying with the procedures set forth**

1       **in the Foreign Intelligence Surveillance**  
2       **Act of 1978 (50 U.S.C. 1801 et seq.) or**  
3       **chapter 119, 121, or 206 of title 18, United**  
4       **States Code.**

5       **SEC. 17. TECHNICAL AND CONFORMING AMENDMENTS.**

6       **(a) TABLE OF CONTENTS.—The table of con-**  
7       **tents in the first section of the Foreign Intel-**  
8       **ligence Surveillance Act of 1978 (50 U.S.C.**  
9       **1801 et seq.) is amended by striking the items**  
10       **relating to sections 105A, 105B, and 105C and**  
11       **inserting the following new items:**

      “Sec. 105A. Clarification of electronic surveillance of non-  
      United States persons outside the United States.

      “Sec. 105B. Procedure for authorizing acquisitions of commu-  
      nications of non-United States persons located  
      outside the United States.

      “Sec. 105C. Emergency authorization of acquisitions of commu-  
      nications of non-United States persons located  
      outside the United States.

      “Sec. 105D. Oversight of acquisitions of communications of  
      non-United States persons located outside of the  
      United States.”.

12       **(b) SECTION 103(e) OF FISA.—Section**  
13       **103(e) of the Foreign Intelligence Surveillance**  
14       **Act of 1978 (50 U.S.C. 1803(e)) is amended—**

15               **(1) in paragraph (1), by striking**  
16               **“105B(h) or”; and**

17               **(2) in paragraph (2), by striking**  
18               **“105B(h) or”.**

19       **(c) REPEAL OF CERTAIN PROVISIONS OF THE**  
20       **PROTECT AMERICA ACT OF 2007.—Sections 4**

1 and 6 of the Protect America Act of 2007 (Pub-  
2 lic Law 110–55) are hereby repealed.

3 SEC. 18. SUNSET; TRANSITION PROCEDURES.

4 (a) SUNSET OF NEW PROVISIONS.—

5 (1) IN GENERAL.—Except as provided  
6 in paragraph (2), effective on December  
7 31, 2009—

8 (A) sections 105A, 105B, 105C, and  
9 105D of the Foreign Intelligence Sur-  
10 veillance Act of 1978 (50 U.S.C. 1801 et  
11 seq.) are hereby repealed; and

12 (B) the table of contents in the  
13 first section of such Act is amended  
14 by striking the items relating to sec-  
15 tions 105A, 105B, 105C, and 105D.

16 (2) ACQUISITIONS AUTHORIZED PRIOR TO  
17 SUNSET.—Any authorization or order  
18 issued under section 105B of the Foreign  
19 Intelligence Surveillance Act of 1978, as  
20 amended by this Act, in effect on Decem-  
21 ber 31, 2009, shall continue in effect until  
22 the date of the expiration of such author-  
23 ization or order.

24 (b) ACQUISITIONS AUTHORIZED PRIOR TO EN-  
25 ACTMENT.—

1           **(1) EFFECT.**—Notwithstanding the  
2           amendments made by this Act, an author-  
3           ization of the acquisition of foreign intel-  
4           ligence information under section 105B of  
5           the Foreign Intelligence Surveillance Act  
6           of 1978 (50 U.S.C. 1801 et seq.) made be-  
7           fore the date of the enactment of this Act  
8           shall remain in effect until the date of the  
9           expiration of such authorization or the  
10          date that is 180 days after such date of  
11          enactment, whichever is earlier.

12          **(2) REPORT.**—Not later than 30 days  
13          after the date of the expiration of all au-  
14          thorizations of acquisition of foreign in-  
15          telligence information under section 105B  
16          of the Foreign Intelligence Surveillance  
17          Act of 1978 (as added by Public Law 110-  
18          55) made before the date of the enact-  
19          ment of this Act in accordance with para-  
20          graph (1), the Director of National Intel-  
21          ligence and the Attorney General shall  
22          submit to the Permanent Select Com-  
23          mittee on Intelligence and the Committee  
24          on the Judiciary of the House of Rep-  
25          resentatives and the Select Committee on



1       **Intelligence and the Committee on the**  
2       **Judiciary of the Senate a report on such**  
3       **authorizations, including—**

4               **(A) the number of targets of an**  
5               **acquisition under section 105B of**  
6               **such Act (as in effect on the day be-**  
7               **fore the date of the enactment of this**  
8               **Act) that were later determined to be**  
9               **located in the United States;**

10              **(B) the number of persons located**  
11              **in the United States whose commu-**  
12              **nications have been acquired under**  
13              **such section;**

14              **(C) the number of reports dis-**  
15              **seminated containing information on**  
16              **a United States person that was col-**  
17              **lected under such section;**

18              **(D) the number of applications**  
19              **submitted for approval of electronic**  
20              **surveillance under section 104 of**  
21              **such Act based upon information col-**  
22              **lected pursuant to an acquisition au-**  
23              **thorized under section 105B of such**  
24              **Act (as in effect on the day before the**

1           **date of the enactment of this Act);**  
2           **and**

3           **(E) a description of any incidents**  
4           **of non-compliance with an authoriza-**  
5           **tion under such section, including in-**  
6           **cidents of non-compliance by—**

7                   **(i) an element of the intel-**  
8                   **ligence community with proce-**  
9                   **dures referred to in subsection**  
10                   **(a)(1) of such section;**

11                   **(ii) an element of the intel-**  
12                   **ligence community with mini-**  
13                   **mization procedures referred to**  
14                   **in subsection (a)(5) of such sec-**  
15                   **tion; and**

16                   **(iii) a person directed to pro-**  
17                   **vide information, facilities, or**  
18                   **technical assistance under sub-**  
19                   **section (e) of such section.**

20           **(3) INTELLIGENCE COMMUNITY DE-**  
21           **FINED.—In this subsection, the term “in-**  
22           **telligence community” has the meaning**  
23           **given the term in section 3(4) of the Na-**  
24           **tional Security Act of 1947 (50 U.S.C.**  
25           **401a(4)).**



Union Calendar No. 231

110<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3773**

[Report No. 110-373, Parts I and II]

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## **A BILL**

To amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes.

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OCTOBER 12, 2007

Reported from the Committee on the Judiciary with an amendment

OCTOBER 12, 2007

Reported from the Permanent Select Committee on Intelligence with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed