

AMENDMENT TO H.R. 8035
OFFERED BY MR. HIGGINS OF LOUISIANA

Add at the end the following new section:

1 **SEC. ____ . WARRANT REQUIREMENT FOR ACCESSING IN-**
2 **FORMATION RELATING TO CERTAIN QUERIES**
3 **OF COMMUNICATIONS OF UNITED STATES**
4 **PERSONS.**

5 (a) REQUIREMENT.—Paragraph (2) of subsection (f)
6 of section 702 of the Foreign Intelligence Surveillance Act
7 of 1978 (50 U.S.C. 1881a) is amended to read as follows:

8 “(2) WARRANT REQUIREMENT FOR CERTAIN
9 ACCESS.—

10 “(A) PROHIBITION.—Except as provided
11 by subparagraph (B), no officer or employee of
12 the United States Government may access
13 United States person information if, before con-
14 ducting a United States person query or during
15 the course of conducting such query, there is
16 probable cause that the United States person to
17 whom such information relates—

18 “(i) is a foreign power or an agent of
19 a foreign power; or

1 “(ii) is committing or has committed
2 a crime.

3 “(B) WARRANT.—The prohibition in sub-
4 paragraph (A) shall not apply to accessing
5 United States person information if the United
6 States person to whom such information relates
7 is subject to—

8 “(i) an order or emergency authoriza-
9 tion authorizing electronic surveillance
10 under section 105 or a physical search
11 under section 304; or

12 “(ii) a warrant issued pursuant to the
13 Federal Rules of Criminal Procedure by a
14 court of competent jurisdiction relating to
15 the crime described in clause (ii) of such
16 subparagraph (A) for which there is prob-
17 able cause.

18 “(C) PROCEDURES AND STANDARDS.—The
19 Attorney General and the Director of National
20 Intelligence shall jointly establish procedures
21 and standards for—

22 “(i) officers and employees of the
23 United States Government to determine
24 the existence of probable cause described
25 in subparagraph (A); and

1 “(ii) maintaining records of such de-
2 terminations and accessing United States
3 person information pursuant to an order or
4 warrant under subparagraph (B).

5 “(D) UNITED STATES PERSON INFORMA-
6 TION DEFINED.—In this paragraph, the term
7 ‘United States person information’ means infor-
8 mation obtained through acquisitions author-
9 ized under subsection (a) accessed by using a
10 United States person query term.”.

11 (b) USE OF INFORMATION.—Paragraph (2) of section
12 706(a) of such Act (50 U.S.C. 1881e(a)) is amended to
13 read as follows:

14 “(2) UNITED STATES PERSONS.—Any informa-
15 tion concerning a United States person acquired
16 under section 702 may not be used in evidence
17 against that United States person pursuant to para-
18 graph (1) in any criminal proceeding if such infor-
19 mation was accessed in violation of subsection (f)(2)
20 of such section.”.

21 (c) ANNUAL REPORTS.—Section 603(b) of such Act
22 (50 U.S.C. 1873(b)) is amended—

23 (1) in paragraph (6)(C), by striking “; and”
24 and inserting a semicolon;

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

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

5 “(8) the—

6 “(A) total number of instances in which
7 the United States Government did not access
8 United States person information under section
9 702 because probable cause existed as described
10 in subsection (f)(2) of such section; and

11 “(B) total number of instances in which
12 the United States Government accessed United
13 States person information because an order or
14 warrant existed as described in subparagraph
15 (B) of such section.”.

16 (d) APPLICATION.—The amendments made by this
17 section to title VII of the Foreign Intelligence Surveillance
18 Act of 1978 (50 U.S.C. 1881 et seq.) shall apply with re-
19 spect to certifications submitted under section 702(h) of
20 such Act to the Foreign Intelligence Surveillance Court
21 on or after the date of the enactment of this Act.

