

113TH CONGRESS
2^D SESSION

S. RES. 343

Establishing a Select Committee of the Senate to make a full and thorough investigation of the unauthorized disclosures of apparently classified information concerning the National Security Agency intelligence-collection programs, operations, and activities, including programs affecting Americans, to make findings based upon the investigation, and to make recommendations based on the investigation and findings.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2014

Mr. MCCAIN submitted the following resolution; which was referred to the
Committee on Rules and Administration

RESOLUTION

Establishing a Select Committee of the Senate to make a full and thorough investigation of the unauthorized disclosures of apparently classified information concerning the National Security Agency intelligence-collection programs, operations, and activities, including programs affecting Americans, to make findings based upon the investigation, and to make recommendations based on the investigation and findings.

Whereas since June 2013, publications have revealed details about certain National Security Agency intelligence-collection programs, operations, and activities, including intelligence-collection programs affecting Americans;

Whereas such publications appear to be based in substantial part on unauthorized disclosures of classified information concerning intelligence collection;

Whereas the unauthorized disclosure of classified information is a felony under Federal law;

Whereas the National Security Agency relies on Federal agency contractors to carry out important aspects of its national security mission;

Whereas the extent of reliance on contract positions may unwisely increase the number of individuals with potential access to classified information and may increase the risk of unauthorized disclosures;

Whereas such unauthorized disclosures may cause damage to United States national security interests, intelligence sources and methods, and relationships with key allies;

Whereas senior officials in the intelligence community may have misled Congress or otherwise obfuscated the nature, extent, or use of certain intelligence-collection programs, operations, and activities of the National Security Agency, including intelligence-collection programs affecting Americans;

Whereas the provision of incomplete or inaccurate information by officials of the intelligence community has inhibited effective congressional oversight of certain intelligence-collection programs, operations, and activities of the National Security Agency, including intelligence-collection programs affecting Americans, and undermined congressional and public support of these programs;

Whereas intelligence-collection programs, operations, and activities of the National Security Agency have been valu-

able to combating terrorism and ensuring the security of the homeland;

Whereas some such programs, operations, and activities that are the subject matter of the unauthorized disclosures may not have been authorized, or may have exceeded that which was authorized, by law, or may not have been permitted under the Constitution of the United States; and

Whereas a Review Group on Intelligence and Communications Technologies was established by the President and issued a final report entitled “Liberty and Security in a Changing World” on December 12, 2013: Now, therefore, be it

1 *Resolved,*

2 **SECTION 1. ESTABLISHMENT OF SELECT COMMITTEE ON**
 3 **INVESTIGATION.**

4 There is established a select committee of the Senate
 5 to be known as the Select Committee on the Investigation
 6 of leaks concerning certain activities of the National Security
 7 Agency (hereinafter in this Resolution referred to as
 8 the “Select Committee”).

9 **SEC. 2. FUNCTIONS AND DUTIES.**

10 (a) **GENERAL DUTIES.**—The Select Committee is au-
 11 thorized and directed—

12 (1) to make a full and thorough investigation of
 13 the unauthorized disclosures that have occurred
 14 since June 2013 of apparently classified information
 15 concerning the National Security Agency intel-
 16 ligence-collection programs, operations, and activi-

1 ties, including intelligence-collection programs affect-
2 ing Americans;

3 (2) to make findings based upon the investiga-
4 tion carried out under paragraph (1);

5 (3) to submit to Congress and the President
6 recommendations based on the investigation carried
7 out under paragraph (1) and the findings made
8 under paragraph (2); and

9 (4) to take any actions necessary and appro-
10 priate to carry out paragraphs (1), (2), and (3).

11 (b) PARTICULAR DUTIES.—Without abridging in any
12 way the authority conferred upon the Select Committee
13 in subsection (a), the Senate further expressly authorizes
14 and directs the Select Committee to make a complete in-
15 vestigation and make findings and recommendations re-
16 lated to the following:

17 (1) The unauthorized disclosures of apparently
18 classified information concerning the National Secu-
19 rity Agency intelligence-collection programs, oper-
20 ations, and activities, including intelligence-collection
21 programs affecting Americans that have occurred
22 since June 2013, including—

23 (A) the circumstances under which unau-
24 thorized disclosure occurred;

1 (B) the extent of the damage done to
2 United States national security interests, intel-
3 ligence sources and methods, and relationships
4 with key allies; and

5 (C) how such damage may be mitigated.

6 (2) Contracting by the National Security Agen-
7 cy, in particular—

8 (A) the extent of reliance by the Agency on
9 contract employees to carry out important as-
10 pects of the national security mission of the
11 Agency;

12 (B) the extent to which contractors with
13 access to classified information were properly
14 vetted;

15 (C) the sufficiency of internal controls to
16 ensure only properly cleared contractors with a
17 need to know had access to classified informa-
18 tion;

19 (D) whether adequate remedial measures
20 have been put in place to address identified de-
21 ficiencies in the foregoing areas; and

22 (E) whether any oversight or legislation is
23 needed to reform any issues identified by the
24 use of Federal contractors in the intelligence
25 agencies.

1 (3) The nature and scope of National Security
2 Agency intelligence-collection programs, operations,
3 and activities, including intelligence-collection pro-
4 grams affecting Americans, that were the subject
5 matter of the unauthorized disclosure, including—

6 (A) the extent of domestic surveillance au-
7 thorized by law;

8 (B) the legal authority that served as the
9 basis for the National Security Agency intel-
10 ligence-collection programs, operations, and ac-
11 tivities that are the subject matter of those dis-
12 closures;

13 (C) the extent to which such programs, op-
14 erations, and activities that were the subject
15 matter of such unauthorized disclosures may
16 have gone beyond what was authorized by law
17 or permitted under the Constitution of the
18 United States;

19 (D) the extent and sufficiency of oversight
20 of such programs, operations, and activities by
21 Congress and the Executive Branch; and

22 (E) the need for greater transparency and
23 more effective congressional oversight of intel-
24 ligence community activities.

1 (4) Whether existing laws of the United States
2 are adequate, either in their provisions or manner of
3 enforcement, to safeguard the rights and privacies of
4 citizens of the United States.

5 (5) The terrorist activities that were disrupted,
6 in whole or in part, with the aid of information ob-
7 tained through the National Security Agency intel-
8 ligence-collection programs, operations, and activities
9 that were the subject matter of those disclosures and
10 whether this information could have been promptly
11 obtained by other means.

12 (6) The findings and recommendations of the
13 Review Group on Intelligence and Communications
14 Technologies established by the President, includ-
15 ing—

16 (A) the feasibility, costs, and benefits of
17 such findings and recommendations; and

18 (B) the legislative action that would be re-
19 quired to implement those findings and rec-
20 ommendations.

21 (7) The need for specific legislative authority to
22 govern the operations of the intelligence collection
23 activities and practices of the National Security
24 Agency, including recommendations and proposals
25 for legislation.

1 **SEC. 3. MEMBERSHIP.**

2 (a) IN GENERAL.—Subject to subsection (b), the Se-
3 lect Committee shall be composed of 14 members as fol-
4 lows:

5 (1) The chairman and vice chairman of the Se-
6 lect Committee on Intelligence of the Senate.

7 (2) The chairman and ranking member of the
8 Committee on Armed Services of the Senate.

9 (3) The chairman and ranking member of the
10 Committee on Homeland Security and Governmental
11 Affairs of the Senate.

12 (4) The chairman and ranking member of the
13 Committee on Foreign Relations of the Senate.

14 (5) The chairman and ranking member of the
15 Committee on the Judiciary of the Senate.

16 (6) The chairman and ranking member of the
17 Committee on Commerce, Science, and Transpor-
18 tation of the Senate.

19 (7) One Senator selected by the majority leader
20 of the Senate.

21 (8) One Senator selected by the minority leader
22 of the Senate.

23 (b) ALTERNATIVE MEMBERSHIP.—If the chairman,
24 vice chairman, or ranking member of a committee referred
25 to in paragraphs (1) through (6) of subsection (a) declines
26 to serve on the Select Committee, then the majority leader

1 of the Senate in the case of a chairman, or the minority
2 leader of the Senate in the case of a vice chairman or
3 ranking member, shall designate a member from that com-
4 mittee to serve on the Select Committee.

5 (c) DATE.—The appointments of the members of the
6 Select Committee shall be made not later than 30 days
7 after the date of adoption of this Resolution.

8 (d) VACANCIES.—Any vacancy in the Select Com-
9 mittee shall not affect its powers, but shall be filled in
10 the same manner as the original appointment.

11 (e) CHAIRMAN AND VICE CHAIRMAN.—

12 (1) CHAIRMAN.—The members of the Select
13 Committee who are members of the majority party
14 of the Senate shall elect a chairman for the Select
15 Committee by majority vote.

16 (2) VICE CHAIRMAN.—The members of the Se-
17 lect Committee who are members of the minority
18 party of the Senate shall elect a vice chairman by
19 majority vote.

20 (f) SERVICE.—Service of a Senator as a member,
21 chairman, or vice chairman of the Select Committee shall
22 not be taken into account for the purposes of paragraph
23 (4) of rule XXV of the Standing Rules of the Senate.

1 **SEC. 4. RULES.**

2 (a) GOVERNANCE UNDER STANDING RULES OF SEN-
3 ATE.—Except as otherwise specifically provided in this
4 Resolution, the investigation and hearings conducted by
5 the Select Committee shall be governed by the Standing
6 Rules of the Senate.

7 (b) ADDITIONAL RULES AND PROCEDURES.—The
8 Select Committee may adopt additional rules or proce-
9 dures if the chairman and the vice chairman of the Select
10 Committee agree, or if the Select Committee by majority
11 vote so decides, that such additional rules or procedures
12 are necessary or advisable to enable the Select Committee
13 to conduct the investigation and hearings authorized by
14 this Resolution. Any such additional rules and proce-
15 dures—

16 (1) shall not be inconsistent with this Resolu-
17 tion or the Standing Rules of the Senate; and

18 (2) shall become effective upon publication in
19 the Congressional Record.

20 **SEC. 5. AUTHORITIES.**

21 (a) IN GENERAL.—The Select Committee may exer-
22 cise all of the powers and responsibilities of a committee
23 under rule XXVI of the Standing Rules of the Senate.

24 (b) POWERS.—The Select Committee may, for the
25 purpose of carrying out this Resolution—

26 (1) hold hearings;

1 (2) administer oaths;

2 (3) sit and act at any time or place during the
3 sessions, recess, and adjournment periods of the
4 Senate;

5 (4) authorize and require, by issuance of sub-
6 poena or otherwise, the attendance and testimony of
7 witnesses and the preservation and production of
8 books, records, correspondence, memoranda, papers,
9 documents, tapes, and any other materials in what-
10 ever form the Select Committee considers advisable;

11 (5) take testimony, orally, by sworn statement,
12 by sworn written interrogatory, or by deposition, and
13 authorize staff members to do the same; and

14 (6) issue letters rogatory and requests, through
15 appropriate channels, for any other means of inter-
16 national assistance.

17 (c) AUTHORIZATION, ISSUANCE, AND ENFORCEMENT
18 OF SUBPOENAS.—

19 (1) AUTHORIZATION.—Subpoenas authorized
20 and issued under this section—

21 (A) may be done with the joint concur-
22 rence of the chairman and the vice chairman of
23 the Select Committee;

24 (B) shall bear the signature of the chair-
25 man or the vice chairman of the Select Com-

1 mittee or the designee of such chairman or vice
2 chairman; and

3 (C) shall be served by any person or class
4 of persons designated by the chairman or the
5 vice chairman of the Select Committee for that
6 purpose anywhere within or without the borders
7 of the United States to the full extent provided
8 by law.

9 (d) ENFORCEMENT.—The Select Committee may
10 make to the Senate by report or Resolution any rec-
11 ommendation, including a recommendation for criminal or
12 civil enforcement, that the Select Committee considers ap-
13 propriate with respect to—

14 (1) the failure or refusal of any person to ap-
15 pear at a hearing or deposition or to produce or pre-
16 serve documents or materials described in subsection
17 (b)(4) in obedience to a subpoena or order of the Se-
18 lect Committee;

19 (2) the failure or refusal of any person to an-
20 swer questions truthfully and completely during the
21 person’s appearance as a witness at a hearing or
22 deposition of the Select Committee; or

23 (3) the failure or refusal of any person to com-
24 ply with any subpoena or order issued under the au-
25 thority of subsection (c).

1 (e) ACCESS TO INFORMATION.—The Select Com-
2 mittee shall have, to the fullest extent permitted by law,
3 access to any such information or materials obtained by
4 any other department or agency of the United States or
5 by anybody investigating the matters described in section
6 3.

7 (f) AUTHORITY OF OTHER COMMITTEES.—Nothing
8 contained in this section shall affect or impair the exercise
9 of any other standing committee of the Senate of any
10 power, or the discharge by such committee of any duty,
11 conferred or imposed upon it by the Standing Rules of
12 the Senate or by the Legislative Reorganization Act of
13 1946 (60 Stat. 812, chapter 753).

14 (g) QUORUM.—

15 (1) REPORTS AND RECOMMENDATIONS.—A ma-
16 jority of the members of the Select Committee shall
17 constitute a quorum for the purpose of reporting a
18 matter or recommendation to the Senate.

19 (2) TESTIMONY.—One member of the Select
20 Committee shall constitute a quorum for the purpose
21 of taking testimony.

22 (3) OTHER BUSINESS.—A majority of the mem-
23 bers of the Select Committee shall constitute a
24 quorum for the purpose of conducting any other
25 business of the Select Committee.

1 (h) SECURITY CLEARANCES.—Each member of the
2 Select Committee shall have an appropriate security clear-
3 ance.

4 (i) VIOLATIONS OF LAW.—

5 (1) REPORTS OF VIOLATION OF LAW.—If the
6 chairman and vice chairman of the Select Com-
7 mittee, or a majority of the Select Committee deter-
8 mine that there is reasonable cause to believe that
9 a violation of law may have occurred, the chairman
10 and vice chairman by letter, or the Select Committee
11 by resolution, are authorized to report such violation
12 to the proper Federal, State, or local authorities.
13 Any such letter or report may recite the basis for
14 the determination of reasonable cause.

15 (2) CONSTRUCTION.—Nothing in this sub-
16 section may be construed to authorize the release of
17 documents or testimony.

18 (j) RECOMMENDATIONS.—The Select Committee
19 shall have authority to make recommendations for appro-
20 priate new legislation or the amendment of any existing
21 statute which the Select Committee considers necessary or
22 desirable to carry out this Resolution.

23 **SEC. 6. REPORTS.**

24 (a) REQUIREMENT FOR REPORT.—Not later than
25 180 days after the appointment of members to the Select

1 Committee, the Select Committee shall submit to the Sen-
2 ate and the President a final report on the results of the
3 investigations and studies conducted pursuant to this Res-
4 olution, together with any recommendations for Congress
5 and the President based on the investigation and findings
6 of the Select Committee.

7 (b) INTERIM REPORTS.—The Select Committee may
8 submit to the Senate such interim reports as the Select
9 Committee considers appropriate.

10 (c) FORM OF REPORTS.—Each report submitted
11 under this section shall be submitted in unclassified form
12 to the greatest extent possible, and may include a classi-
13 fied annex if necessary.

14 **SEC. 7. ADMINISTRATIVE PROVISIONS.**

15 (a) STAFF.—

16 (1) IN GENERAL.—The Select Committee may
17 employ in accordance with paragraph (2) a staff
18 composed of such clerical, investigatory, legal, tech-
19 nical, and other personnel as the Select Committee,
20 or the chairman and the vice chairman of the Select
21 Committee, considers necessary or appropriate.

22 (2) APPOINTMENT OF STAFF.—The staff of the
23 Select Committee shall consist of such personnel as
24 the chairman and the vice chairman shall jointly ap-
25 point. Such staff may be removed jointly by the

1 chairman and the vice chairman, and shall work
2 under the joint general supervision and direction of
3 the chairman and the vice chairman.

4 (b) COMPENSATION.—The chairman and the vice
5 chairman of the Select Committee shall jointly fix the com-
6 pensation of all personnel of the staff of the Select Com-
7 mittee.

8 (c) REIMBURSEMENT OF EXPENSES.—The Select
9 Committee may reimburse the members of its staff for
10 travel, subsistence, and other necessary expenses incurred
11 by such staff members in the performance of their func-
12 tions for the Select Committee.

13 (d) SERVICES OF SENATE STAFF.—The Select Com-
14 mittee may use, with the prior consent of the chair of any
15 other committee of the Senate or the chair of any sub-
16 committee of any committee of the Senate, the facilities
17 of any other committee of the Senate, or the services of
18 any members of the staff of such committee or sub-
19 committee, whenever the Select Committee or the chair-
20 man or the vice chairman of the Select Committee con-
21 siders that such action is necessary or appropriate to en-
22 able the Select Committee to carry out its responsibilities,
23 duties, or functions under this Resolution.

24 (e) DETAIL OF EMPLOYEES.—The Select Committee
25 may use on a reimbursable basis, with the prior consent

1 of the head of the department or agency of Government
2 concerned and the approval of the Committee on Rules
3 and Administration of the Senate, the services of per-
4 sonnel of such department or agency.

5 (f) TEMPORARY AND INTERMITTENT SERVICES.—
6 The Select Committee may procure the temporary or
7 intermittent services of individual consultants, or organi-
8 zations thereof.

9 (g) PAYMENT OF EXPENSES.—There shall be paid
10 out of the applicable accounts of the Senate such sums
11 as may be necessary for the expenses of the Select Com-
12 mittee. Such payments shall be made by vouchers signed
13 by the Chair of the Select Committee and approved in the
14 manner directed by the Committee on Rules and Adminis-
15 tration of the Senate. Amounts made available under this
16 subsection shall be expended in accordance with regula-
17 tions prescribed by the Committee on Rules and Adminis-
18 tration of the Senate.

19 **SEC. 8. DEFINITIONS.**

20 In this Resolution:

21 (1) CLASSIFIED INFORMATION.—The term
22 “classified information” has the meaning given that
23 term in section 804 of the National Security Act of
24 1947 (50 U.S.C. 3164)).

1 (2) INTELLIGENCE COMMUNITY.—The term
2 “intelligence community” has the meaning given
3 that term in section 3 of the National Security Act
4 of 1947 (50 U.S.C. 3003).

5 **SEC. 9. EFFECTIVE DATE; TERMINATION.**

6 (a) EFFECTIVE DATE.—This Resolution shall take
7 effect on the date of the adoption of this Resolution.

8 (b) TERMINATION.—The Select Committee shall ter-
9 minate 60 days after the submittal of the report required
10 by section 6(a).

11 (c) DISPOSITION OF RECORDS.—Upon termination of
12 the Select Committee, the records of the Select Committee
13 shall become the records of any committee designated by
14 the majority leader of the Senate with the concurrence of
15 the minority leader of the Senate.

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