

105TH CONGRESS
2D SESSION

H. R. 4007

To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1998

Mrs. MALONEY of New York (for herself, Mr. HORN, Mr. BURTON of Indiana, Mr. WAXMAN, Mr. KUCINICH, Mr. GOSS, Mr. DICKS, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, 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

A BILL

To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nazi War Crimes Dis-
5 closure Act”.

6 **SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS**

7 **INTERAGENCY WORKING GROUP.**

8 (a) DEFINITIONS.—In this section the term—

9 (1) “agency” has the meaning given such term
10 under section 551 of title 5, United States Code;

11 (2) “Interagency Group” means the Nazi War
12 Criminal Records Interagency Working Group estab-
13 lished under subsection (b);

14 (3) “Nazi war criminal records” has the mean-
15 ing given such term under section 3 of this Act; and

16 (4) “record” means a Nazi war criminal record.

17 (b) ESTABLISHMENT OF INTERAGENCY GROUP.—

18 (1) IN GENERAL.—Not later than 60 days after
19 the date of enactment of this Act, the President
20 shall establish the Nazi War Criminal Records Inter-
21 agency Working Group, which shall remain in exist-
22 ence for 3 years after the date the Interagency
23 Group is established.

24 (2) MEMBERSHIP.—The President shall appoint
25 to the Interagency Group individuals whom the

1 President determines will most completely and effec-
2 tively carry out the functions of the Interagency
3 Group within the time limitations provided in this
4 section, including the Director of the Holocaust Mu-
5 seum, the Historian of the Department of State, the
6 Archivist of the United States, the head of any other
7 agency the President considers appropriate, and no
8 more than 3 other persons. The head of an agency
9 appointed by the President may designate an appro-
10 priate officer to serve on the Interagency Group in
11 lieu of the head of such agency.

12 (3) INITIAL MEETING.—Not later than 90 days
13 after the date of enactment of this Act, the Inter-
14 agency Group shall hold an initial meeting and begin
15 the functions required under this section.

16 (c) FUNCTIONS.—Not later than 1 year after the date
17 of enactment of this Act, the Interagency Group shall, to
18 the greatest extent possible consistent with section 3 of
19 this Act—

20 (1) locate, identify, inventory, recommend for
21 declassification, and make available to the public at
22 the National Archives and Records Administration,
23 all classified Nazi war criminal records of the United
24 States;

1 (2) coordinate with agencies and take such ac-
2 tions as necessary to expedite the release of such
3 records to the public; and

4 (3) submit a report to Congress, including the
5 Committee on the Judiciary of the Senate and the
6 Committee on Government Reform and Oversight of
7 the House of Representatives, describing all such
8 records, the disposition of such records, and the ac-
9 tivities of the Interagency Group and agencies under
10 this section.

11 (d) FUNDING.—There are authorized to be appro-
12 priated such sums as may be necessary to carry out the
13 provisions of this Act.

14 **SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS RE-**
15 **GARDING PERSONS WHO COMMITTED NAZI**
16 **WAR CRIMES.**

17 (a) NAZI WAR CRIMINAL RECORDS.—For purposes
18 of this Act, the term “Nazi war criminal records” means
19 classified records or portions of records that—

20 (1) pertain to any person with respect to whom
21 the United States Government, in its sole discretion,
22 has grounds to believe ordered, incited, assisted, or
23 otherwise participated in the persecution of any per-
24 son because of race, religion, national origin, or po-
25 litical opinion, during the period beginning on March

1 23, 1933, and ending on May 8, 1945, under the di-
2 rection of, or in association with—

3 (A) the Nazi government of Germany;

4 (B) any government in any area occupied
5 by the military forces of the Nazi government
6 of Germany;

7 (C) any government established with the
8 assistance or cooperation of the Nazi govern-
9 ment of Germany; or

10 (D) any government which was an ally of
11 the Nazi government of Germany; or

12 (2) pertain to any transaction as to which the
13 United States Government, in its sole discretion, has
14 grounds to believe—

15 (A) involved assets taken from persecuted
16 persons during the period beginning on March
17 23, 1933, and ending on May 8, 1945, by,
18 under the direction of, on behalf of, or under
19 authority granted by the Nazi government of
20 Germany or any nation then allied with that
21 government; and

22 (B) such transaction was completed with-
23 out the assent of the owners of those assets or
24 their heirs or assigns or other legitimate rep-
25 resentatives.

1 (b) RELEASE OF RECORDS.—

2 (1) IN GENERAL.—Subject to paragraphs (2),
3 (3), and (4), the Nazi War Criminal Records Inter-
4 agency Working Group shall release in their entirety
5 Nazi war criminal records that are described in sub-
6 section (a).

7 (2) EXCEPTION FOR PRIVACY, ETC.—An agency
8 head may exempt from release under paragraph (1)
9 specific information, that would—

10 (A) constitute a clearly unwarranted inva-
11 sion of personal privacy;

12 (B) reveal the identity of a confidential
13 human source, or reveal information about the
14 application of an intelligence source or method,
15 or reveal the identity of a human intelligence
16 source when the unauthorized disclosure of that
17 source would clearly and demonstrably damage
18 the national security interests of the United
19 States;

20 (C) reveal information that would assist in
21 the development or use of weapons of mass de-
22 struction;

23 (D) reveal information that would impair
24 United States cryptologic systems or activities;

1 (E) reveal information that would impair
2 the application of state-of-the-art technology
3 within a United States weapon system;

4 (F) reveal actual United States military
5 war plans that remain in effect;

6 (G) reveal information that would seriously
7 and demonstrably impair relations between the
8 United States and a foreign government, or se-
9 riously and demonstrably undermine ongoing
10 diplomatic activities of the United States;

11 (H) reveal information that would clearly
12 and demonstrably impair the current ability of
13 United States Government officials to protect
14 the President, Vice President, and other offi-
15 cials for whom protection services, in the inter-
16 est of national security, are authorized;

17 (I) reveal information that would seriously
18 and demonstrably impair current national secu-
19 rity emergency preparedness plans; or

20 (J) violate a treaty or international agree-
21 ment.

22 (3) APPLICATION OF EXEMPTIONS.—

23 (A) IN GENERAL.—In applying the exemp-
24 tions listed in subparagraphs (B) through (J)
25 of paragraph (2), there shall be a presumption

1 that the public interest in the release of Nazi
2 war criminal records will be served by disclosure
3 and release of the records. Assertion of such ex-
4 emption may only be made when the agency
5 head determines that disclosure and release
6 would be harmful to a specific interest identi-
7 fied in the exemption. An agency head who
8 makes such a determination shall promptly re-
9 port it to the committees of Congress with ap-
10 propriate jurisdiction, including the Committee
11 on the Judiciary of the Senate and the Commit-
12 tee on Government Reform and Oversight of
13 the House of Representatives. The exemptions
14 set forth in paragraph (2) shall constitute the
15 only authority pursuant to which an agency
16 head may exempt records otherwise subject to
17 release under paragraph (1).

18 (B) APPLICATION OF TITLE 5.—A deter-
19 mination by an agency head to apply an exemp-
20 tion listed in subparagraphs (B) through (I) of
21 paragraph (2) shall be subject to the same
22 standard of review that applies in the case of
23 records withheld under section 552(b) of title 5,
24 United States Code.

1 (4) LIMITATION ON APPLICATION.—This sub-
2 section shall not apply to records—

3 (A) related to or supporting any active or
4 inactive investigation, inquiry, or prosecution by
5 the Office of Special Investigations of the De-
6 partment of Justice; or

7 (B) solely in the possession, custody, or
8 control of that office.

9 (c) INAPPLICABILITY OF NATIONAL SECURITY ACT
10 OF 1947 EXEMPTION.—Section 701(a) of the National
11 Security Act of 1947 (50 U.S.C. 431) shall not apply to
12 any operational file, or any portion of any operational file,
13 that constitutes a Nazi war criminal record under section
14 3 of this Act.

15 **SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR**
16 **NAZI WAR CRIMINAL RECORDS.**

17 (a) EXPEDITED PROCESSING.—For purposes of expe-
18 dited processing under section 552(a)(6)(E) of title 5,
19 United States Code, any requester of a Nazi war criminal
20 record shall be deemed to have a compelling need for such
21 record.

22 (b) REQUESTER.—For purposes of this section, the
23 term “requester” means any person who was persecuted
24 in the manner described under section 3(a)(1) of this Act
25 who requests a Nazi war criminal record.

1 **SEC. 5. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on the date that is 90 days after the date of
4 enactment of this Act.

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