

**Calendar No. 172**

108TH CONGRESS  
1ST SESSION

**S. 1025**

**[Report No. 108–44]**

**[Report No. 108–80]**

To authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MAY 8, 2003

Mr. ROBERTS, from the Select Committee on Intelligence, reported the following original bill; which was read twice and referred to the Committee on Armed Services pursuant to Section 3(b) of S. Res. 400, 94th Congress, for a period of not to exceed 30 days of session

JUNE 26, 2003

Reported by Mr. WARNER, with amendments

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**A BILL**

To authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

(a) SHORT TITLE.—This Act may be cited as the  
“Intelligence Authorization Act for Fiscal Year 2004”.

Sec. 1. Short title; table of contents.

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Incorporation of reporting requirements.

Sec. 106. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

Sec. 201. Authorization of appropriations.

## Subtitle A—Recurring General Provisions

## Subtitle B—Intelligence

## Subtitle C—Surveillance

Sec. 321. Clarification and modification of sunset of surveillance-related amendments made by USA PATRIOT ACT of 2001.

#### Subtitle D—Reports

- Sec. 331. Report on cleared insider threat to classified computer networks.
- Sec. 332. Report on security background investigations and security clearance procedures of the Federal Government.
- Sec. 333. Report on detail of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.
- Sec. 334. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.
- Sec. 335. Report of Secretary of Defense and Director of Central Intelligence on strategic planning.
- Sec. 336. Report on United States dependence on computer hardware and software manufactured overseas.
- Sec. 337. Report on lessons learned from military operations in Iraq.
- Sec. 338. Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions.
- Sec. 339. Repeal of certain report requirements relating to intelligence activities.

#### Subtitle E—Other Matters

- Sec. 351. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.
- Sec. 352. Modifications of authorities on explosive materials.
- Sec. 353. Modification of prohibition on the naturalization of certain persons.
- Sec. 354. Modification to definition of financial institution in the Right to Financial Privacy Act.
- Sec. 355. Coordination of Federal Government research on security evaluations.
- Sec. 356. Technical amendments.

### TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Amendment to certain Central Intelligence Agency Act of 1949 notification requirements.
- Sec. 402. Protection of certain Central Intelligence Agency personnel from tort liability.
- Sec. 403. Repeal of obsolete limitation on use of funds in Central Services Working Capital Fund.
- Sec. 404. Technical amendment to Federal Information Security Management Act of 2002.

### TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

- ~~Sec. 501. Protection of operational files of the National Security Agency.~~
- Sec. 501. Protection of operational files of the National Security Agency.*
- ~~Sec. 502. Provision of affordable living quarters for certain students working at National Security Agency laboratory.~~
- ~~Sec. 503~~ 502. Protection of certain National Security Agency personnel from tort liability.
- ~~Sec. 504. Authority for intelligence community elements of Department of Defense to award personal service contracts.~~

# **TITLE I—INTELLIGENCE ACTIVITIES**

## **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

(13) The Department of Homeland Security.

1 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

2 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL  
3 CEILINGS.—The amounts authorized to be appropriated  
4 under section 101, and the authorized personnel ceilings  
5 as of September 30, 2004, for the conduct of the intel-  
6 ligence and intelligence-related activities of the elements  
7 listed in such section, are those specified in the classified  
8 Schedule of Authorizations prepared to accompany the  
9 conference report on the bill \_\_\_\_ of the One Hundred  
10 Eighth Congress.

11 (b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-  
12 THORIZATIONS.—The Schedule of Authorizations shall be  
13 made available to the Committees on Appropriations of  
14 the Senate and House of Representatives and to the Presi-  
15 dent. The President shall provide for suitable distribution  
16 of the Schedule, or of appropriate portions of the Sched-  
17 ule, within the executive branch.

18 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

19 (a) AUTHORITY FOR ADJUSTMENTS.—With the ap-  
20 proval of the Director of the Office of Management and  
21 Budget, the Director of Central Intelligence may authorize  
22 employment of civilian personnel in excess of the number  
23 authorized for fiscal year 2004 under section 102 when  
24 the Director of Central Intelligence determines that such  
25 action is necessary to the performance of important intel-  
26 ligence functions, except that the number of personnel em-

1   ployed in excess of the number authorized under such sec-  
 2   tion may not, for any element of the intelligence commu-  
 3   nity, exceed 2 percent of the number of civilian personnel  
 4   authorized under such section for such element.

5       (b) NOTICE TO INTELLIGENCE COMMITTEES.—The  
 6   Director of Central Intelligence shall promptly notify the  
 7   Select Committee on Intelligence of the Senate and the  
 8   Permanent Select Committee on Intelligence of the House  
 9   of Representatives whenever the Director exercises the au-  
 10   thority granted by this section.

11   **SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT AC-**  
 12                                   **COUNT.**

13       (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
 14   authorized to be appropriated for the Intelligence Commu-  
 15   nity Management Account of the Director of Central Intel-  
 16   ligence for fiscal year 2004 the sum of \$198,390,000.  
 17   Within such amount, funds identified in the classified  
 18   Schedule of Authorizations referred to in section 102(a)  
 19   for advanced research and development shall remain avail-  
 20   able until September 30, 2005.

21       (b) AUTHORIZED PERSONNEL LEVELS.—The ele-  
 22   ments within the Intelligence Community Management  
 23   Account of the Director of Central Intelligence are author-  
 24   ized 310 full-time personnel as of September 30, 2004.  
 25   Personnel serving in such elements may be permanent em-

1 ployees of the Intelligence Community Management Ac-  
2 count or personnel detailed from other elements of the  
3 United States Government.

4 (c) CLASSIFIED AUTHORIZATIONS.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—In  
6 addition to amounts authorized to be appropriated  
7 for the Intelligence Community Management Ac-  
8 count by subsection (a), there are also authorized to  
9 be appropriated for the Intelligence Community  
10 Management Account for fiscal year 2004 such addi-  
11 tional amounts as are specified in the classified  
12 Schedule of Authorizations referred to in section  
13 102(a). Such additional amounts for research and  
14 development shall remain available until September  
15 30, 2005.

16 (2) AUTHORIZATION OF PERSONNEL.—In addi-  
17 tion to the personnel authorized by subsection (b)  
18 for elements of the Intelligence Community Manage-  
19 ment Account as of September 30, 2004, there are  
20 also authorized such additional personnel for such  
21 elements as of that date as are specified in the clas-  
22 sified Schedule of Authorizations.

23 (d) REIMBURSEMENT.—Except as provided in section  
24 113 of the National Security Act of 1947 (50 U.S.C.  
25 404h), during fiscal year 2004 any officer or employee of

1 the United States or a member of the Armed Forces who  
2 is detailed to the staff of the Intelligence Community Man-  
3 agement Account from another element of the United  
4 States Government shall be detailed on a reimbursable  
5 basis, except that any such officer, employee, or member  
6 may be detailed on a nonreimbursable basis for a period  
7 of less than one year for the performance of temporary  
8 functions as required by the Director of Central Intel-  
9 ligence.

10 (e) NATIONAL DRUG INTELLIGENCE CENTER.—

11 (1) IN GENERAL.—Of the amount authorized to  
12 be appropriated in subsection (a), \$37,090,000 shall  
13 be available for the National Drug Intelligence Cen-  
14 ter. Within such amount, funds provided for re-  
15 search, development, testing, and evaluation pur-  
16 poses shall remain available until September 30,  
17 2005, and funds provided for procurement purposes  
18 shall remain available until September 30, 2006.

19 (2) TRANSFER OF FUNDS.—The Director of  
20 Central Intelligence shall transfer to the Attorney  
21 General funds available for the National Drug Intel-  
22 ligence Center under paragraph (1). The Attorney  
23 General shall utilize funds so transferred for the ac-  
24 tivities of the National Drug Intelligence Center.



1           (3) LIMITATION.—Amounts available for the  
2       National Drug Intelligence Center may not be used  
3       in contravention of the provisions of section  
4       103(d)(1) of the National Security Act of 1947 (50  
5       U.S.C. 403–3(d)(1)).

6           (4) AUTHORITY.—Notwithstanding any other  
7       provision of law, the Attorney General shall retain  
8       full authority over the operations of the National  
9       Drug Intelligence Center.

10 **SEC. 105. INCORPORATION OF REPORTING REQUIRE-**  
11 **MENTS.**

12       (a) IN GENERAL.—Each requirement to submit a re-  
13       port to the congressional intelligence committees that is  
14       included in the joint explanatory statement to accompany  
15       the conference report on the bill \_\_\_\_ of the One Hundred  
16       Eighth Congress, or in the classified annex to this Act,  
17       is hereby incorporated into this Act, and is hereby made  
18       a requirement in law.

19       (b) CONGRESSIONAL INTELLIGENCE COMMITTEES  
20       DEFINED.—In this section, the term “congressional intel-  
21       ligence committees” means—

22           (1) the Select Committee on Intelligence of the  
23       Senate; and

24           (2) the Permanent Select Committee on Intel-  
25       ligence of the House of Representatives.

1 **SEC. 106. PREPARATION AND SUBMITTAL OF REPORTS, RE-**  
2 **VIEWS, STUDIES, AND PLANS RELATING TO**  
3 **INTELLIGENCE ACTIVITIES OF DEPARTMENT**  
4 **OF DEFENSE OR DEPARTMENT OF ENERGY.**

5 (a) CONSULTATION IN PREPARATION.—(1) The Di-  
6 rector of Central Intelligence shall ensure that any report,  
7 review, study, or plan required to be prepared or con-  
8 ducted by a provision of this Act, including a provision  
9 of the classified Schedule of Authorizations referred to in  
10 section 102(a) or the classified annex to this Act, that in-  
11 volves the intelligence or intelligence-related activities of  
12 the Department of Defense or the Department of Energy  
13 is prepared or conducted in consultation with the Sec-  
14 retary of Defense or the Secretary of Energy, as appro-  
15 priate.

16 (2) The Secretary of Defense or the Secretary of En-  
17 ergy may carry out any consultation required by this sub-  
18 section through an official of the Department of Defense  
19 or the Department of Energy, as the case may be, des-  
20 ignated by such Secretary for that purpose.

21 (b) SUBMITTAL.—Any report, review, study, or plan  
22 referred to in subsection (a) shall be submitted, in addition  
23 to any other committee of Congress specified for submittal  
24 in the provision concerned, to the following committees of  
25 Congress:

1 (1) The Committees on Armed Services and Ap-  
2 propriations and the Select Committee on Intel-  
3 ligence of the Senate.

4 (2) The Committees on Armed Services and Ap-  
5 propriations and the Permanent Select Committee  
6 on Intelligence of the House of Representatives.

7 **TITLE II—CENTRAL INTEL-**  
8 **LIGENCE AGENCY RETIRE-**  
9 **MENT AND DISABILITY SYS-**  
10 **TEM**

11 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated for the Cen-  
13 tral Intelligence Agency Retirement and Disability Fund  
14 for fiscal year 2004 the sum of \$226,400,000.

15 **TITLE III—GENERAL**  
16 **PROVISIONS**  
17 **Subtitle A—Recurring General**  
18 **Provisions**

19 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**  
20 **BENEFITS AUTHORIZED BY LAW.**

21 Appropriations authorized by this Act for salary, pay,  
22 retirement, and other benefits for Federal employees may  
23 be increased by such additional or supplemental amounts  
24 as may be necessary for increases in such compensation  
25 or benefits authorized by law.

1 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**  
 2 **ACTIVITIES.**

3 The authorization of appropriations by this Act shall  
 4 not be deemed to constitute authority for the conduct of  
 5 any intelligence activity which is not otherwise authorized  
 6 by the Constitution or the laws of the United States.

7 **Subtitle B—Intelligence**

8 **SEC. 311. MODIFICATION OF AUTHORITY TO OBLIGATE AND**  
 9 **EXPEND CERTAIN FUNDS FOR INTELLIGENCE**  
 10 **ACTIVITIES.**

11 Section 504(a)(3) of the National Security Act of  
 12 1947 (50 U.S.C. 414(a)(3)) is amended—

13 (1) by inserting “and” at the end of subpara-  
 14 graph (A);

15 (2) by striking subparagraph (B); and

16 (3) by redesignating subparagraph (C) as sub-  
 17 paragraph (B).

18 **SEC. 312. MODIFICATION OF NOTICE AND WAIT REQUIRE-**  
 19 **MENTS ON PROJECTS TO CONSTRUCT OR IM-**  
 20 **PROVE INTELLIGENCE COMMUNITY FACILI-**  
 21 **TIES.**

22 (a) INCREASE OF THRESHOLDS FOR NOTICE.—Sub-  
 23 section (a) of section 602 of the Intelligence Authorization  
 24 Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat.  
 25 3432; 50 U.S.C. 403–2b(a)) is amended—

1           (1) by striking “\$750,000” each place it ap-  
2           pears and inserting “\$5,000,000”; and

3           (2) by striking “\$500,000” each place it ap-  
4           pears and inserting “\$1,000,000”.

5           (b) NOTICE AND WAIT REQUIREMENTS FOR EMER-  
6           GENCY PROJECTS.—Subsection (b)(2) of that section is  
7           amended—

8           (1) by redesignating subparagraphs (A), (B),  
9           and (C) as clauses (i), (ii), and (iii), respectively;

10          (2) by inserting “(A)” after “(2) REPORT.—”;

11          (3) by striking “21-day period” and inserting  
12          “7-day period”; and

13          (4) by adding at the end the following new sub-  
14          paragraph:

15               “(B) Notwithstanding subparagraph (A), a  
16               project referred to in paragraph (1) may begin on  
17               the date the notification is received by the appro-  
18               priate committees of Congress under that paragraph  
19               if the Director of Central Intelligence and the Sec-  
20               retary of Defense jointly determine that—

21                       “(i) an emergency exists with respect to  
22                       the national security or the protection of health,  
23                       safety, or environmental quality; and

1           “(ii) any delay in the commencement of  
2           the project would harm any or all of those in-  
3           terests.”.

4 **SEC. 313. USE OF FUNDS FOR COUNTERDRUG AND**  
5 **COUNTERTERRORISM ACTIVITIES FOR CO-**  
6 **LOMBIA.**

7       (a) **AUTHORITY.**—Funds designated for intelligence  
8 or intelligence-related purposes for assistance to the Gov-  
9 ernment of Colombia for counterdrug activities for fiscal  
10 year 2004, and any unobligated funds available to any ele-  
11 ment of the intelligence community for such activities for  
12 a prior fiscal year, shall be available—

13           (1) to support a unified campaign against nar-  
14 cotics trafficking and against activities by organiza-  
15 tions designated as terrorist organizations (such as  
16 the Revolutionary Armed Forces of Colombia  
17 (FARC), the National Liberation Army (ELN), and  
18 the United Self-Defense Forces of Colombia (AUC));  
19 and

20           (2) to take actions to protect human health and  
21 welfare in emergency circumstances, including un-  
22 dertaking rescue operations.

23       (b) **TERMINATION OF AUTHORITY.**—The authority  
24 provided in subsection (a) shall cease to be effective if the  
25 Secretary of Defense has credible evidence that the Colom-

1 bian Armed Forces are not conducting vigorous operations  
2 to restore government authority and respect for human  
3 rights in areas under the effective control of paramilitary  
4 and guerrilla organizations.

5 (c) APPLICATION OF CERTAIN PROVISIONS OF  
6 LAW.—Sections 556, 567, and 568 of Public Law 107–  
7 115, section 8093 of the Department of Defense Appro-  
8 priations Act, 2002, and the numerical limitations on the  
9 number of United States military personnel and United  
10 States individual civilian contractors in section 3204(b)(1)  
11 of Public Law 106–246 shall be applicable to funds made  
12 available pursuant to the authority contained in subsection  
13 (a).

14 (d) LIMITATION ON PARTICIPATION OF UNITED  
15 STATES PERSONNEL.—No United States Armed Forces  
16 personnel or United States civilian contractor employed by  
17 the United States will participate in any combat operation  
18 in connection with assistance made available under this  
19 section, except for the purpose of acting in self defense  
20 or rescuing any United States citizen to include United  
21 States Armed Forces personnel, United States civilian em-  
22 ployees, and civilian contractors employed by the United  
23 States.

1 **SEC. 314. PILOT PROGRAM ON ANALYSIS OF SIGNALS AND**  
2 **OTHER INTELLIGENCE BY INTELLIGENCE AN-**  
3 **ALYSTS OF VARIOUS ELEMENTS OF THE IN-**  
4 **TELLIGENCE COMMUNITY.**

5 (a) IN GENERAL.—The Director of Central Intel-  
6 ligence shall carry out a pilot program to assess the feasi-  
7 bility and advisability of permitting intelligence analysts  
8 of various elements of the intelligence community to access  
9 and analyze intelligence from the databases of other ele-  
10 ments of the intelligence community in order to achieve  
11 the objectives set forth in subsection (c).

12 (b) COVERED INTELLIGENCE.—The intelligence to be  
13 analyzed under the pilot program under subsection (a)  
14 shall include the following:

15 (1) Signals intelligence of the National Security  
16 Agency.

17 (2) Such intelligence of other elements of the  
18 intelligence community as the Director shall select  
19 for purposes of the pilot program.

20 (c) OBJECTIVES.—The objectives set forth in this  
21 subsection are as follows:

22 (1) To enhance the capacity of the intelligence  
23 community to undertake so-called “all source fu-  
24 sion” analysis in support of the intelligence and in-  
25 telligence-related missions of the intelligence commu-  
26 nity.



1           (2) To reduce, to the extent practicable, the  
2           amount of intelligence collected by the intelligence  
3           community that is not assessed, or reviewed, by in-  
4           telligence analysts.

5           (3) To reduce the burdens imposed on analyt-  
6           ical personnel of the elements of the intelligence  
7           community by current practices regarding the shar-  
8           ing of intelligence among elements of the intelligence  
9           community.

10          (d) COMMENCEMENT.—The Director shall commence  
11          the pilot program under subsection (a) not later than De-  
12          cember 31, 2003.

13          (e) VARIOUS MECHANISMS REQUIRED.—In carrying  
14          out the pilot program under subsection (a), the Director  
15          shall develop and utilize various mechanisms to facilitate  
16          the access to, and the analysis of, intelligence in the data-  
17          bases of the intelligence community by intelligence ana-  
18          lysts of other elements of the intelligence community, in-  
19          cluding the use of so-called “detailees in place”.

20          (f) SECURITY.—(1) In carrying out the pilot program  
21          under subsection (a), the Director shall take appropriate  
22          actions to protect against the disclosure and unauthorized  
23          use of intelligence in the databases of the elements of the  
24          intelligence community which may endanger sources and

1 methods which (as determined by the Director) warrant  
2 protection.

3 (2) The actions taken under paragraph (1) shall in-  
4 clude the provision of training on the accessing and han-  
5 dling of information in the databases of various elements  
6 of the intelligence community and the establishment of  
7 limitations on access to information in such databases to  
8 United States persons.

9 (g) ASSESSMENT.—Not later than February 1, 2004,  
10 after the commencement under subsection (d) of the pilot  
11 program under subsection (a), the Under Secretary of De-  
12 fense for Intelligence and the Assistant Director of Cen-  
13 tral Intelligence for Analysis and Production shall jointly  
14 carry out an assessment of the progress of the pilot pro-  
15 gram in meeting the objectives set forth in subsection (c).

16 (h) REPORT.—(1) The Director of Central Intel-  
17 ligence and the Secretary of Defense shall jointly submit  
18 to the appropriate committees of Congress a report on the  
19 assessment carried out under subsection (g).

20 (2) The report shall include—

21 (A) a description of the pilot program under  
22 subsection (a);

23 (B) the findings of the Under Secretary and  
24 Assistant Director as a result of the assessment;

1 (C) any recommendations regarding the pilot  
2 program that the Under Secretary and the Assistant  
3 Director jointly consider appropriate in light of the  
4 assessment; and

5 (D) any recommendations that the Director and  
6 Secretary consider appropriate for purposes of the  
7 report.

8 (i) APPROPRIATE COMMITTEES OF CONGRESS DE-  
9 FINED.—In this section, the term “appropriate commit-  
10 tees of Congress” means—

11 (1) the Select Committee on Intelligence, the  
12 Committee on Armed Services, and the Committee  
13 on Appropriations of the Senate; and

14 (2) the Permanent Select Committee on Intel-  
15 ligence, the Committee on Armed Services, and the  
16 Committee on Appropriations of the House of Rep-  
17 resentatives.

18 **SEC. 315. PILOT PROGRAM ON TRAINING FOR INTEL-**  
19 **LIGENCE ANALYSTS.**

20 (a) PILOT PROGRAM REQUIRED.—(1) The Director  
21 of Central Intelligence shall carry out a pilot program to  
22 assess the feasibility and advisability of providing for the  
23 preparation of selected students for availability for em-  
24 ployment as intelligence analysts for the intelligence and  
25 intelligence-related activities of the United States through

1 a training program similar to the Reserve Officers' Train-  
2 ing Corps programs of the Department of Defense.

3 (2) The pilot program shall be known as the Intel-  
4 ligence Community Analyst Training Program.

5 (b) ELEMENTS.—In carrying out the pilot program  
6 under subsection (a), the Director shall establish and  
7 maintain one or more cadres of students who—

8 (1) participate in such training as intelligence  
9 analysts as the Director considers appropriate; and

10 (2) upon completion of such training, are avail-  
11 able for employment as intelligence analysts under  
12 such terms and conditions as the Director considers  
13 appropriate.

14 (c) DURATION.—The Director shall carry out the  
15 pilot program under subsection (a) during fiscal years  
16 2004 through 2006.

17 (d) LIMITATION ON NUMBER OF MEMBERS DURING  
18 FISCAL YEAR 2004.—The total number of individuals  
19 participating in the pilot program under subsection (a)  
20 during fiscal year 2004 may not exceed 150 students.

21 (e) RESPONSIBILITY.—The Director shall carry out  
22 the pilot program under subsection (a) through the Assist-  
23 ant Director of Central Intelligence for Analysis and Pro-  
24 duction.

1 (f) REPORTS.—(1) Not later than 120 days after the  
2 date of the enactment of this Act, the Director shall sub-  
3 mit to Congress a preliminary report on the pilot program  
4 under subsection (a), including a description of the pilot  
5 program and the authorities to be utilized in carrying out  
6 the pilot program.

7 (2) Not later than one year after the commencement  
8 of the pilot program, the Director shall submit to Congress  
9 a report on the pilot program. The report shall include—

10 (A) a description of the activities under the  
11 pilot program, including the number of individuals  
12 who participated in the pilot program and the train-  
13 ing provided such individuals under the pilot pro-  
14 gram;

15 (B) an assessment of the effectiveness of the  
16 pilot program in meeting the purpose of the pilot  
17 program; and

18 (C) any recommendations for additional legisla-  
19 tive or administrative action that the Director con-  
20 sider appropriate in light of the pilot program.

21 (g) FUNDING.—Of the amounts authorized to be ap-  
22 propriated by this Act, \$8,000,000 shall be available in  
23 fiscal year 2004 to carry out this section.

1 **SEC. 316. EXTENSION OF NATIONAL COMMISSION FOR THE**  
 2 **REVIEW OF THE RESEARCH AND DEVELOP-**  
 3 **MENT PROGRAMS OF THE UNITED STATES IN-**  
 4 **TELLIGENCE COMMUNITY.**

5 Section 1007(a) of the Intelligence Authorization Act  
 6 for Fiscal Year 2003 (Public Law 107–306; 116 Stat.  
 7 2442; 50 U.S.C. 401 note) is amended by striking “Sep-  
 8 tember 1, 2003,” and inserting “September 1, 2004,”.

9 **Subtitle C—Surveillance**

10 **SEC. 321. CLARIFICATION AND MODIFICATION OF SUNSET**  
 11 **OF SURVEILLANCE-RELATED AMENDMENTS**  
 12 **MADE BY USA PATRIOT ACT OF 2001.**

13 (a) CLARIFICATION.—Section 224 of the USA PA-  
 14 TRIOT ACT of 2001 (Public Law 107–56; 115 Stat. 295)  
 15 is amended by adding at the end the following new sub-  
 16 section:

17 “(c) EFFECT OF SUNSET.—Effective on December  
 18 31, 2005, each provision of law the amendment of which  
 19 is sunset by subsection (a) shall be revived so as to be  
 20 in effect as such provision of law was in effect on October  
 21 25, 2001.”.

22 (b) MODIFICATION.—Subsection (a) of that section is  
 23 amended by inserting “204,” after “203(c),”.

## **Subtitle D—Reports**

### **SEC. 331. REPORT ON CLEARED INSIDER THREAT TO CLASSIFIED COMPUTER NETWORKS.**

(a) REPORT REQUIRED.—The Director of Central Intelligence and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report on the risks to the national security of the United States of the current computer security practices of the elements of the intelligence community and of the Department of Defense.

(b) ASSESSMENTS.—The report under subsection (a) shall include an assessment of the following:

(1) The vulnerability of the computers and computer systems of the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying

1 comprehensive computer firewalls, accountability  
2 procedures, or other appropriate security controls.

3 (3) Any other matters that the Director and the  
4 Secretary jointly consider appropriate for purposes  
5 of the report.

6 (c) INFORMATION ON ACCESS TO NETWORKS.—The  
7 report under subsection (a) shall also include information  
8 as follows:

9 (1) An estimate of the number of access points  
10 on each classified computer or computer system of  
11 an element of the intelligence community or the De-  
12 partment of Defense that permit unsupervised  
13 uploading or downloading of classified information,  
14 set forth by level of classification.

15 (2) An estimate of the number of individuals  
16 utilizing such computers or computer systems who  
17 have access to input-output devices on such com-  
18 puters or computer systems.

19 (3) A description of the policies and procedures  
20 governing the security of the access points referred  
21 to in paragraph (1), and an assessment of the ade-  
22 quacy of such policies and procedures.

23 (4) An assessment of viability of utilizing other  
24 technologies (including so-called “thin client serv-  
25 ers”) to achieve enhanced security of such com-



1       puters and computer systems through more rigorous  
2       control of access to such computers and computer  
3       systems.

4       (d) RECOMMENDATIONS.—The report under sub-  
5       section (a) shall also include such recommendations for  
6       modifications or improvements of the current computer se-  
7       curity practices of the elements of the intelligence commu-  
8       nity, and of the Department of Defense, as the Director  
9       and the Secretary jointly consider appropriate as a result  
10      of the assessments under subsection (b) and the informa-  
11      tion under subsection (c).

12      (e) SUBMITTAL DATE.—The report under subsection  
13      (a) shall be submitted not later than February 15, 2004.

14      (f) FORM.—The report under subsection (a) may be  
15      submitted in classified or unclassified form, at the election  
16      of the Director.

17      (g) DEFINITIONS.—In this section:

18           (1) The term “appropriate committees of Con-  
19           gress” means—

20                   (A) the Select Committee on Intelligence  
21                   and the Committee on Armed Services of the  
22                   Senate; and

23                   (B) the Permanent Select Committee on  
24                   Intelligence and the Committee on Armed Serv-  
25                   ices of the House of Representatives.

1           (2) The term “elements of the intelligence com-  
2           munity” means the elements of the intelligence com-  
3           munity set forth in or designated under section 3(4)  
4           of the National Security Act of 1947 (50 U.S.C.  
5           401a(4)).

6 **SEC. 332. REPORT ON SECURITY BACKGROUND INVESTIGA-**  
7 **TIONS AND SECURITY CLEARANCE PROCE-**  
8 **DURES OF THE FEDERAL GOVERNMENT.**

9           (a) REPORT REQUIRED.—The Director of Central In-  
10          telligence and the Secretary of Defense shall jointly submit  
11          to the appropriate committees of Congress a report on the  
12          utility and effectiveness of the current security back-  
13          ground investigations and security clearance procedures of  
14          the Federal Government in meeting the purposes of such  
15          investigations and procedures.

16          (b) PARTICULAR REPORT MATTERS.—In preparing  
17          the report, the Director and the Secretary shall address  
18          in particular the following:

19               (1) A comparison of the costs and benefits of  
20               conducting background investigations for Secret  
21               clearance with the costs and benefits of conducting  
22               full field background investigations.

23               (2) The standards governing the revocation of  
24               security clearances.

1 (c) RECOMMENDATIONS.—The report under sub-  
 2 section (a) shall include such recommendations for modi-  
 3 fications or improvements of the current security back-  
 4 ground investigations or security clearance procedures of  
 5 the Federal Government as the Director and the Secretary  
 6 jointly consider appropriate as a result of the preparation  
 7 of the report under that subsection.

8 (d) SUBMITTAL DATE.—The report under subsection  
 9 (a) shall be submitted not later than February 15, 2004.

10 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-  
 11 FINED.—In this section, the term “appropriate commit-  
 12 tees of Congress” means—

13 (1) the Select Committee on Intelligence and  
 14 the Committees on Armed Services and the Judici-  
 15 ary of the Senate; and

16 (2) the Permanent Select Committee on Intel-  
 17 ligence and the Committees on Armed Services and  
 18 the Judiciary of the House of Representatives.

19 **SEC. 333. REPORT ON DETAIL OF CIVILIAN INTELLIGENCE**  
 20 **PERSONNEL AMONG ELEMENTS OF THE IN-**  
 21 **TELLIGENCE COMMUNITY AND THE DEPART-**  
 22 **MENT OF DEFENSE.**

23 (a) REPORT REQUIRED.—The heads of the elements  
 24 of the intelligence community shall jointly submit to the  
 25 appropriate committees of Congress a report on means of

1 improving the detail or transfer of civilian intelligence per-  
2 sonnel between and among the various elements of the in-  
3 telligence community for the purpose of enhancing the  
4 flexibility and effectiveness of the intelligence community  
5 in responding to changes in requirements for the collec-  
6 tion, analysis, and dissemination of intelligence.

7 (b) REPORT ELEMENTS.—The report under sub-  
8 section (a) shall—

9 (1) set forth a variety of proposals on means of  
10 improving the detail or transfer of civilian intel-  
11 ligence personnel as described in that subsection;

12 (2) identify the proposal or proposals deter-  
13 mined by the heads of the elements of the intel-  
14 ligence community to be most likely to meet the pur-  
15 pose described in that subsection; and

16 (3) include such recommendations for such leg-  
17 islative or administrative action as the heads of the  
18 elements of the intelligence community consider ap-  
19 propriate to implement the proposal or proposals  
20 identified under paragraph (2).

21 (c) SUBMITTAL DATE.—The report under subsection  
22 (a) shall be submitted not later than February 15, 2004.

23 (d) DEFINITIONS.—In this section:

24 (1) The term “appropriate committees of Con-  
25 gress” means—

1 (A) the Select Committee on Intelligence  
2 and the Committees on Armed Services and the  
3 Judiciary of the Senate; and

4 (B) the Permanent Select Committee on  
5 Intelligence and the Committees on Armed  
6 Services and the Judiciary of the House of Rep-  
7 resentatives.

8 (2) The term “elements of the intelligence com-  
9 munity” means the elements of the intelligence com-  
10 munity set forth in or designated under section 3(4)  
11 of the National Security Act of 1947 (50 U.S.C.  
12 401a(4)).

13 (3) The term “heads of the elements of the in-  
14 telligence community” includes the Secretary of De-  
15 fense with respect to each element of the intelligence  
16 community within the Department of Defense or the  
17 military departments.

18 **SEC. 334. REPORT ON MODIFICATIONS OF POLICY AND LAW**  
19 **ON CLASSIFIED INFORMATION TO FACILI-**  
20 **TATE SHARING OF INFORMATION FOR NA-**  
21 **TIONAL SECURITY PURPOSES.**

22 (a) REPORT.—Not later than four months after the  
23 date of the enactment of this Act, the President shall sub-  
24 mit to the appropriate committees of Congress a report  
25 that—

1           (1) identifies impediments in current policy and  
2 regulations to the sharing of classified information  
3 horizontally across and among Federal departments  
4 and agencies, and between Federal departments and  
5 agencies and vertically to and from agencies of State  
6 and local governments and the private sector, for na-  
7 tional security purposes, including homeland secu-  
8 rity;

9           (2) proposes appropriate modifications of policy,  
10 law, and regulations to eliminate such impediments  
11 in order to facilitate such sharing of classified infor-  
12 mation for homeland security purposes, including  
13 homeland security; and

14           (3) outlines a plan of action (including appro-  
15 priate milestones and funding) to establish the Ter-  
16 rorist Threat Integration Center as called for in the  
17 Information on the State of the Union given by the  
18 President to Congress under section 3 of Article II  
19 of the Constitution of the United States in 2003.

20       (b) CONSIDERATIONS.—In preparing the report  
21 under subsection (a), the President shall—

22           (1) consider the extent to which the reliance on  
23 a document-based approach to the protection of clas-  
24 sified information impedes the sharing of classified  
25 information; and

1           (2) consider the extent to which the utilization  
 2           of a database-based approach, or other electronic ap-  
 3           proach, to the protection of classified information  
 4           might facilitate the sharing of classified information.

5           (c) COORDINATION WITH OTHER INFORMATION  
 6 SHARING ACTIVITIES.—In preparing the report under  
 7 subsection (a), the President shall, to the maximum extent  
 8 practicable, take into account actions being undertaken  
 9 under the Homeland Security Information Sharing Act  
 10 (subtitle I of title VIII of Public Law 107–296; 116 Stat.  
 11 2252; 6 U.S.C. 481 et seq.).

12          (d) APPROPRIATE COMMITTEES OF CONGRESS DE-  
 13 FINED.—In this section, the term “appropriate commit-  
 14 tees of Congress” means—

15           (1) the Select Committee on Intelligence and  
 16           the Committee on Armed Services of the Senate; and

17           (2) the Permanent Select Committee on Intel-  
 18           ligence, the Select Committee on Homeland Security,  
 19           and the Committee on Armed Services of the House  
 20           of Representatives.

21 **SEC. 335. REPORT OF SECRETARY OF DEFENSE AND DIREC-**  
 22 **TOR OF CENTRAL INTELLIGENCE ON STRA-**  
 23 **TEGIC PLANNING.**

24           (a) REPORT.—Not later than February 15, 2004, the  
 25 Secretary of Defense and the Director of Central Intel-

1   ligence shall jointly submit to the appropriate committees  
2   of Congress a report that assesses progress in the fol-  
3   lowing:

4           (1) The development by the Department of De-  
5       fense and the intelligence community of a com-  
6       prehensive and uniform analytical capability to as-  
7       sess the utility and advisability of various sensor and  
8       platform architectures and capabilities for the collec-  
9       tion of intelligence.

10          (2) The improvement of coordination between  
11       the Department and the intelligence community on  
12       strategic and budgetary planning.

13       (b) FORM.—The report under subsection (a) may be  
14   submitted in classified form.

15       (c) APPROPRIATE COMMITTEES OF CONGRESS DE-  
16   FINED.—In this section, the term “appropriate commit-  
17   tees of Congress” means—

18           (1) the Select Committee on Intelligence and  
19       the Committee on Armed Services of the Senate; and

20           (2) the Permanent Select Committee on Intel-  
21       ligence and the Committee on Armed Services of the  
22       House of Representatives.



1 **SEC. 336. REPORT ON UNITED STATES DEPENDENCE ON**  
2 **COMPUTER HARDWARE AND SOFTWARE MAN-**  
3 **UFACTURED OVERSEAS.**

4 (a) REPORT.—Not later than February 15, 2004, the  
5 Director of Central Intelligence shall submit to the appro-  
6 priate committees of Congress a report on the extent of  
7 United States dependence on computer hardware or soft-  
8 ware that is manufactured overseas.

9 (b) ELEMENTS.—The report under subsection (a)  
10 shall address the following:

11 (1) The extent to which the United States cur-  
12 rently depends on computer hardware or software  
13 that is manufactured overseas.

14 (2) The extent to which United States depend-  
15 ence on such computer hardware or software is in-  
16 creasing.

17 (3) The vulnerabilities of the national security  
18 and economy of the United States as a result of  
19 United States dependence on such computer hard-  
20 ware or software.

21 (4) Any other matters relating to United States  
22 dependence on such computer hardware or software  
23 that the Director considers appropriate.

24 (c) CONSULTATION WITH PRIVATE SECTOR.—In pre-  
25 paring the report under subsection (a), the Director may  
26 consult, and is encouraged to consult, with appropriate

1 persons and entities in the computer hardware or software  
 2 industry and with other appropriate persons and entities  
 3 in the private sector.

4 (d) FORM.—(1) The report under subsection (a) shall  
 5 be submitted in unclassified form, but may include a clas-  
 6 sified annex.

7 (2) The report may be in the form of a National In-  
 8 telligence Estimate.

9 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-  
 10 FINED.—In this section, the term “appropriate commit-  
 11 tees of Congress” means—

12 (1) the Select Committee on Intelligence and  
 13 the Committee on Armed Services of the Senate; and

14 (2) the Permanent Select Committee on Intel-  
 15 ligence and the Committee on Armed Services of the  
 16 House of Representatives.

17 **SEC. 337. REPORT ON LESSONS LEARNED FROM MILITARY**  
 18 **OPERATIONS IN IRAQ.**

19 (a) REPORT.—Not later than one year after the date  
 20 of the enactment of this Act, the Director of Central Intel-  
 21 ligence shall submit to the appropriate committees of Con-  
 22 gress a report on the intelligence lessons learned as a re-  
 23 sult of Operation Iraqi Freedom.

24 (b) RECOMMENDATIONS.—The report under sub-  
 25 section (a) shall include such recommendations on means

1 of improving training, equipment, operations, coordina-  
2 tion, and collection of or for intelligence as the Director  
3 considers appropriate.

4 (c) FORM.—The report under subsection (a) shall be  
5 submitted in classified form.

6 (d) APPROPRIATE COMMITTEES OF CONGRESS DE-  
7 FINED.—In this section, the term “appropriate commit-  
8 tees of Congress” means—

9 (1) the Select Committee on Intelligence and  
10 the Committee on Armed Services of the Senate; and

11 (2) the Permanent Select Committee on Intel-  
12 ligence and the Committee on Armed Services of the  
13 House of Representatives.

14 **SEC. 338. REPORTS ON CONVENTIONAL WEAPONS AND AM-**  
15 **MUNITION OBTAINED BY IRAQ IN VIOLATION**  
16 **OF CERTAIN UNITED NATIONS SECURITY**  
17 **COUNCIL RESOLUTIONS.**

18 (a) PRELIMINARY REPORT.—Not later than 120 days  
19 after the date of the cessation of hostilities in Iraq (as  
20 determined by the President), the Director of the Defense  
21 Intelligence Agency shall submit to the appropriate com-  
22 mittees of Congress a preliminary report on all informa-  
23 tion obtained by the Department of Defense and the intel-  
24 ligence community on the conventional weapons and am-  
25 munition obtained by Iraq in violation of applicable resolu-

1 tions of the United Nations Security Council adopted since  
2 the invasion of Kuwait by Iraq in August 1990.

3 (b) FINAL REPORT.—(1) Not later than 270 days  
4 after the date of the cessation of hostilities in Iraq (as  
5 so determined), the Director shall submit to the appro-  
6 priate committees of Congress a final report on the infor-  
7 mation described in subsection (a).

8 (2) The final report under paragraph (1) shall in-  
9 clude such updates of the preliminary report under sub-  
10 section (a) as the Director considers appropriate.

11 (c) ELEMENTS.—Each report under this section shall  
12 set forth, to the extent practicable, with respect to each  
13 shipment of weapons or ammunition addressed in such re-  
14 port the following:

15 (1) The country of origin.

16 (2) Any country of transshipment.

17 (d) FORM.—Each report under this section shall be  
18 submitted in unclassified form, but may include a classi-  
19 fied annex.

20 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-  
21 FINED.—In this section, the term “appropriate commit-  
22 tees of Congress” means—

23 (1) the Select Committee on Intelligence and  
24 the Committee on Armed Services of the Senate; and

1           (2) the Permanent Select Committee on Intel-  
 2           ligence and the Committee on Armed Services of the  
 3           House of Representatives.

4   **SEC. 339. REPEAL OF CERTAIN REPORT REQUIREMENTS**  
 5                           **RELATING TO INTELLIGENCE ACTIVITIES.**

6           (a) ANNUAL EVALUATION OF PERFORMANCE AND  
 7   RESPONSIVENESS OF INTELLIGENCE COMMUNITY.—Sec-  
 8   tion 105 of the National Security Act of 1947 (50 U.S.C.  
 9   403–5) is amended by striking subsection (d).

10          (b) PERIODIC AND SPECIAL REPORTS ON DISCLO-  
 11   SURE OF INTELLIGENCE INFORMATION TO UNITED NA-  
 12   TIONS.—Section 112 of the National Security Act of 1947  
 13   (50 U.S.C. 404g) is amended—

14               (1) by striking subsection (b); and

15               (2) by redesignating subsections (c), (d), and  
 16               (e) as subsections (b), (c), and (d), respectively.

17          (c) ANNUAL REPORT ON INTELLIGENCE COMMUNITY  
 18   COOPERATION WITH COUNTERDRUG ACTIVITIES.—Sec-  
 19   tion 114 of the National Security Act of 1947 (50 U.S.C.  
 20   404i) is amended—

21               (1) by striking subsection (a); and

22               (2) by redesignating subsections (b) through (f)  
 23               as subsections (a) through (e), respectively.

24          (d) ANNUAL REPORT ON RUSSIAN NUCLEAR FACILI-  
 25   TIES AND FORCES.—Section 114 of the National Security

1 Act of 1947, as amended by subsection (c) of this section,  
2 is further amended—

3 (1) by striking subsection (a); and

4 (2) by redesignating subsections (b) through (e)  
5 as subsections (a) through (d), respectively.

6 (e) ANNUAL REPORT ON COVERT LEASES.—Section  
7 114 of the National Security Act of 1947, as amended  
8 by this section, is further amended—

9 (1) by striking subsection (c); and

10 (2) by striking subsection (d).

11 (f) ANNUAL REPORT ON PROTECTION OF COVERT  
12 AGENTS.—Section 603 of the National Security Act of  
13 1947 (50 U.S.C. 423) is repealed.

14 (g) ANNUAL REPORT ON CERTAIN FOREIGN COMPA-  
15 NIES INVOLVED IN PROLIFERATION OF WEAPONS OF  
16 MASS DESTRUCTION.—Section 827 of the Intelligence Au-  
17 thorization Act for Fiscal Year 2003 (Public Law 107–  
18 306; 116 Stat. 2430; 50 U.S.C. 404n–3) is repealed.

19 (h) ANNUAL REPORT ON INTELLIGENCE ACTIVITIES  
20 OF PEOPLE’S REPUBLIC OF CHINA.—Section 308 of the  
21 Intelligence Authorization Act for Fiscal Year 1998 (Pub-  
22 lic Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note)  
23 is repealed.

24 (i) ANNUAL REPORT ON COORDINATION OF COUN-  
25 TERINTELLIGENCE MATTERS WITH FBI.—Section 811(c)

1 of the Counterintelligence and Security Enhancements Act  
 2 of 1994 (title VIII of Public Law 103–359; 50 U.S.C.  
 3 402a(c)) is amended—

4 (1) by striking paragraph (6); and

5 (2) by redesignating paragraphs (7) and (8) as  
 6 paragraphs (6) and (7), respectively.

7 (j) REPORTS ON DECISIONS NOT TO PROSECUTE  
 8 VIOLATIONS OF CLASSIFIED INFORMATION PROCEDURES  
 9 ACT.—Section 13 of the Classified Information Proce-  
 10 dures Act (18 U.S.C. App.) is amended—

11 (1) by striking subsections (a) and (b); and

12 (2) by striking “(c)”.

13 (k) REPORT ON POSTEMPLOYMENT ASSISTANCE FOR  
 14 TERMINATED INTELLIGENCE EMPLOYEES.—Section 1611  
 15 of title 10, United States Code, is amended by striking  
 16 subsection (e).

17 (l) ANNUAL REPORT ON ACTIVITIES OF FBI PER-  
 18 SONNEL OUTSIDE THE UNITED STATES.—Section 540C  
 19 of title 18, United States Code, is repealed.

20 (m) ANNUAL REPORT ON EXCEPTIONS TO CON-  
 21 SUMER DISCLOSURE REQUIREMENTS FOR NATIONAL SE-  
 22 CURITY INVESTIGATIONS.—Section 604(b)(4) of the Fair  
 23 Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amend-  
 24 ed—

25 (1) by striking subparagraphs (D) and (E); and

1           (2) by redesignating subparagraph (F) as sub-  
2       paragraph (D).

3       (n) CONFORMING AMENDMENTS.—Section 507 of the  
4       National Security Act of 1947 (50 U.S.C. 415b) is amend-  
5       ed—

6           (1) in subsection (a)—

7               (A) in paragraph (1)—

8                   (i) by striking subparagraphs (A),  
9                   (C), (D), (G), (I), (J), and (L); and

10                  (ii) by redesignating subparagraphs  
11                  (B), (E), (F), (H), (K), (M), and (N) as  
12                  subparagraphs (A), (B), (C), (D), (E),  
13                  (F), and (G), respectively; and

14                  (iii) in subparagraph (E), as so redes-  
15                  ignated, by striking “section 114(c)” and  
16                  inserting “section 114(a)”; and

17           (B) in paragraph (2)—

18               (i) by striking subparagraphs (A),  
19               (E), and (F);

20               (ii) by redesignating subparagraphs  
21               (B), (D), and (G) as subparagraphs (A),  
22               (B), and (C), respectively; and

23               (iii) in subparagraph (A), as so redes-  
24               ignated, by striking “section 114(d)” and  
25               inserting “section 114(b)”; and



1 (2) in subsection (b)—

2 (A) by striking paragraph (1) and (3); and

3 (B) by redesignating paragraphs (2), (4),  
4 (5), (6), (7), and (8) as paragraphs (1), (2),  
5 (3), (4), (5), and (6), respectively.

6 (o) CLERICAL AMENDMENTS.—

7 (1) NATIONAL SECURITY ACT OF 1947.—The  
8 table of contents for the National Security Act of  
9 1947 is amended by striking the item relating to  
10 section 603.

11 (2) TITLE 18, UNITED STATES CODE.—The  
12 table of sections at the beginning of chapter 33 of  
13 title 18, United States Code, is amended by striking  
14 the item relating to section 540C.

15 (p) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on December 31, 2003.

## 17 **Subtitle E—Other Matters**

### 18 **SEC. 351. EXTENSION OF SUSPENSION OF REORGANIZA-** 19 **TION OF DIPLOMATIC TELECOMMUNI-** 20 **CATIONS SERVICE PROGRAM OFFICE.**

21 Section 311 of the Intelligence Authorization Act for  
22 Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301  
23 note) is amended—

1 (1) in the heading, by striking “**TWO-YEAR**”  
 2 before “**SUSPENSION OF REORGANIZA-**  
 3 **TION**”; and

4 (2) in the text, by striking “ending on October  
 5 1, 2003” and inserting “ending on the date that is  
 6 60 days after the appropriate congressional commit-  
 7 tees of jurisdiction (as defined in section 324(d) of  
 8 that Act (22 U.S.C. 7304(d)) are notified jointly by  
 9 the Secretary of State (or the Secretary’s designee)  
 10 and the Director of the Office of Management and  
 11 Budget (or the Director’s designee) that the oper-  
 12 ational framework for the office has been termi-  
 13 nated”.

14 **SEC. 352. MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE**  
 15 **MATERIALS.**

16 (a) CLARIFICATION OF ALIENS AUTHORIZED TO DIS-  
 17 TRIBUTE EXPLOSIVE MATERIALS.—Section 842(d)(7) of  
 18 title 18, United States Code, is amended—

19 (1) in subparagraph (A), by striking “or” at  
 20 the end;

21 (2) in subparagraph (B)—

22 (A) by inserting “or” at the end of clause  
 23 (i); and

24 (B) by striking clauses (iii) and (iv); and

25 (3) by adding the following new subparagraphs:

1           “(C) is a member of a North Atlantic  
 2           Treaty Organization (NATO) or other friendly  
 3           foreign military force, as determined by the At-  
 4           torney General in consultation with the Sec-  
 5           retary of Defense, who is present in the United  
 6           States under military orders for training or  
 7           other military purpose authorized by the United  
 8           States and the shipping, transporting, posses-  
 9           sion, or receipt of explosive materials is in fur-  
 10          therance of the authorized military purpose; or

11           “(D) is lawfully present in the United  
 12          States in cooperation with the Director of Cen-  
 13          tral Intelligence, and the shipment, transpor-  
 14          tation, receipt, or possession of the explosive  
 15          materials is in furtherance of such coopera-  
 16          tion;”.

17          (b) CLARIFICATION OF ALIENS AUTHORIZED TO  
 18          POSSESS OR RECEIVE EXPLOSIVE MATERIALS.—Section  
 19          842(i)(5) of title 18, United States Code, is amended—

20               (1) in subparagraph (A), by striking “or” at  
 21          the end;

22               (2) in subparagraph (B)—

23                       (A) by inserting “or” at the end of clause  
 24                       (i); and

25                       (B) by striking clauses (iii) and (iv); and

1 (3) by adding the following new subparagraphs:

2 “(C) is a member of a North Atlantic  
3 Treaty Organization (NATO) or other friendly  
4 foreign military force, as determined by the At-  
5 torney General in consultation with the Sec-  
6 retary of Defense, who is present in the United  
7 States under military orders for training or  
8 other military purpose authorized by the United  
9 States and the shipping, transporting, posses-  
10 sion, or receipt of explosive materials is in fur-  
11 therance of the authorized military purpose; or

12 “(D) is lawfully present in the United  
13 States in cooperation with the Director of Cen-  
14 tral Intelligence, and the shipment, transpor-  
15 tation, receipt, or possession of the explosive  
16 materials is in furtherance of such coopera-  
17 tion;”.

18 **SEC. 353. MODIFICATION OF PROHIBITION ON THE NATU-**  
19 **RALIZATION OF CERTAIN PERSONS.**

20 Section 313(e)(4) of the Immigration and Nationality  
21 Act (8 U.S.C. 1424(e)(4)) is amended—

22 (1) by inserting “when Department of Defense  
23 activities are relevant to the determination” after  
24 “Secretary of Defense”; and

1           (2) by inserting “and the Secretary of Home-  
2           land Security” after “Attorney General”.

3   **SEC. 354. MODIFICATION TO DEFINITION OF FINANCIAL IN-**  
4                           **STITUTION IN THE RIGHT TO FINANCIAL PRI-**  
5                           **VACY ACT.**

6           The Right to Financial Privacy Act of 1978 (12  
7   U.S.C. 3401 et seq.) is amended—

8           (1) in section 1101(1) (12 U.S.C. 3401(1)), by  
9           inserting “, except as provided in section 1114,” be-  
10          fore “means any office”; and

11          (2) in section 1114 (12 U.S.C. 3414), by add-  
12          ing at the end the following:

13          “(c) For purposes of this section, the term ‘financial  
14   institution’ has the same meaning as in section 5312(a)(2)  
15   of title 31, United States Code, except that, for purposes  
16   of this section, such term shall include only such a finan-  
17   cial institution any part of which is located inside any  
18   State or territory of the United States, the District of Co-  
19   lumbia, Puerto Rico, Guam, American Samoa, or the  
20   United States Virgin Islands.”.

21   **SEC. 355. COORDINATION OF FEDERAL GOVERNMENT RE-**  
22                           **SEARCH ON SECURITY EVALUATIONS.**

23          (a) WORKSHOPS FOR COORDINATION OF RE-  
24   SEARCH.—The National Science Foundation and the Of-  
25   fice of Science and Technology Policy shall jointly sponsor

1 not less than two workshops on the coordination of Fed-  
2 eral Government research on the use of behavioral, psy-  
3 chological, and physiological assessments of individuals in  
4 the conduct of security evaluations.

5 (b) DEADLINE FOR COMPLETION OF ACTIVITIES.—

6 The activities of the workshops sponsored under sub-  
7 section (a) shall be completed not later than March 1,  
8 2004.

9 (c) PURPOSES.—The purposes of the workshops  
10 sponsored under subsection (a) are as follows:

11 (1) To provide a forum for cataloging and co-  
12 ordinating Federally-funded research activities relat-  
13 ing to the development of new techniques in the be-  
14 havioral, psychological, or physiological assessment  
15 of individuals to be used in security evaluations.

16 (2) To develop a research agenda for the Fed-  
17 eral Government on behavioral, psychological, and  
18 physiological assessments of individuals, including  
19 an identification of the research most likely to ad-  
20 vance the understanding of the use of such assess-  
21 ments of individuals in security evaluations.

22 (3) To distinguish between short-term and long-  
23 term areas of research on behavioral, psychological,  
24 and physiological assessments of individuals in order

1 maximize the utility of short-term and long-term re-  
2 search on such assessments.

3 (4) To identify the Federal agencies best suited  
4 to support research on behavioral, psychological, and  
5 physiological assessments of individuals.

6 (5) To develop recommendations for coordi-  
7 nating future Federally-funded research for the de-  
8 velopment, improvement, or enhancement of security  
9 evaluations.

10 (d) ADVISORY GROUP.—(1) In order to assist the Na-  
11 tional Science Foundation and the Office of Science and  
12 Technology Policy in carrying out the activities of the  
13 workshops sponsored under subsection (a), there is hereby  
14 established an interagency advisory group with respect to  
15 such workshops.

16 (2) The advisory group shall be composed of the fol-  
17 lowing:

18 (A) A representative of the Social, Behavioral,  
19 and Economic Directorate of the National Science  
20 Foundation.

21 (B) A representative of the Office of Science,  
22 and Technology Policy.

23 (C) The Secretary of Defense, or a designee of  
24 the Secretary.

1           (D) The Secretary of State, or a designee of the  
2       Secretary.

3           (E) The Attorney General, or a designee of the  
4       Attorney General.

5           (F) The Secretary of Energy, or a designee of  
6       the Secretary.

7           (G) The Secretary of Homeland Security, or a  
8       designee of the Secretary.

9           (H) The Director of Central Intelligence, or a  
10      designee of the Director.

11          (I) The Director of the Federal Bureau of In-  
12      vestigation, or a designee of the Director.

13          (J) The National Counterintelligence Executive,  
14      or a designee of the National Counterintelligence  
15      Executive.

16          (K) Any other official assigned to the advisory  
17      group by the President for purposes of this section.

18      (3) The members of the advisory group under sub-  
19      paragraphs (A) and (B) of paragraph (2) shall jointly  
20      head the advisory group.

21      (4) The advisory group shall provide the Foundation  
22      and the Office such information, advice, and assistance  
23      with respect to the workshops sponsored under subsection  
24      (a) as the advisory group considers appropriate.



1       (5) The advisory group shall not be treated as an ad-  
2 visory committee for purposes of the Federal Advisory  
3 Committee Act (5 U.S.C. App.).

4       (e) REPORT.—Not later than March 1, 2004, the Na-  
5 tional Science Foundation and the Office of Science and  
6 Technology Policy shall jointly submit Congress a report  
7 on the results of activities of the workshops sponsored  
8 under subsection (a), including the findings and rec-  
9 ommendations of the Foundation and the Office as a re-  
10 sult of such activities.

11       (f) FUNDING.—(1) Of the amount authorized to be  
12 appropriated for the Intelligence Community Management  
13 Account by section 104(a), \$500,000 shall be available to  
14 the National Science Foundation and the Office of Science  
15 and Technology Policy to carry out this section.

16       (2) The amount authorized to be appropriated by  
17 paragraph (1) shall remain available until expended.

18 **SEC. 356. TECHNICAL AMENDMENTS.**

19       (a) NATIONAL SECURITY ACT OF 1947.—Subsection  
20 (c)(1) of section 112 of the National Security Act of 1947,  
21 as redesignated by section 339(b) of this Act, is further  
22 amended by striking “section 103(c)(6)” and inserting  
23 “section 103(c)(7)”.

24       (b) CENTRAL INTELLIGENCE AGENCY ACT OF  
25 1949.—(1) Section 6 of the Central Intelligence Agency

1 Act of 1949 (50 U.S.C. 403g) is amended by striking  
2 “section 103(c)(6) of the National Security Act of 1947  
3 (50 U.S.C. 403–3(c)(6))” and inserting “section 103(c)(7)  
4 of the National Security Act of 1947 (50 U.S.C. 403–  
5 3(c)(7))”.

6 (2) Section 15 of that Act (50 U.S.C. 403o) is  
7 amended—

8 (A) in subsection (a)(1), by striking “special  
9 policemen of the General Services Administration  
10 perform under the first section of the Act entitled  
11 ‘An Act to authorize the Federal Works Adminis-  
12 trator or officials of the Federal Works Agency duly  
13 authorized by him to appoint special policeman for  
14 duty upon Federal property under the jurisdiction of  
15 the Federal Works Agency, and for other pur-  
16 poses’ (40 U.S.C. 318),” and inserting “officers and  
17 agents of the Department of Homeland Security, as  
18 provided in section 1315(b)(2) of title 40, United  
19 States Code,”; and

20 (B) in subsection (b), by striking “the fourth  
21 section of the Act referred to in subsection (a) of  
22 this section (40 U.S.C. 318c)” and inserting “sec-  
23 tion 1315(c)(2) of title 40, United States Code”.

1       (c) NATIONAL SECURITY AGENCY ACT OF 1959.—  
2 Section 11 of the National Security Agency Act of 1959  
3 (50 U.S.C. 402 note) is amended—

4           (1) in subsection (a)(1), by striking “special po-  
5       licemen of the General Services Administration per-  
6       form under the first section of the Act entitled ‘An  
7       Act to authorize the Federal Works Administrator  
8       or officials of the Federal Works Agency duly au-  
9       thorized by him to appoint special policeman for  
10      duty upon Federal property under the jurisdiction of  
11      the Federal Works Agency, and for other pur-  
12      poses’ (40 U.S.C. 318)” and inserting “officers and  
13      agents of the Department of Homeland Security, as  
14      provided in section 1315(b)(2) of title 40, United  
15      States Code,”; and

16          (2) in subsection (b), by striking “the fourth  
17      section of the Act referred to in subsection (a) (40  
18      U.S.C. 318c)” and inserting “section 1315(c)(2) of  
19      title 40, United States Code”.

20       (d) INTELLIGENCE AUTHORIZATION ACT FOR FISCAL  
21 YEAR 2003.—Section 343 of the Intelligence Authoriza-  
22 tion Act for Fiscal Year 2003 (Public Law 107–306; 116  
23 Stat. 2399; 50 U.S.C. 404n–2) is amended—

24           (1) in subsection (c), by striking “section  
25      103(c)(6) of the National Security Act of 1947 (50

1 U.S.C. 403–3(c)(6))” and inserting “section  
 2 103(c)(7) of the National Security Act of 1947 (50  
 3 U.S.C. 403–3(c)(7))”; and

4 (2) in subsection (e)(2), by striking “section  
 5 103(c)(6)” and inserting “section 103(c)(7)”.

6 (e) PUBLIC LAW 107–173.—Section 201(c)(3)(F) of  
 7 the Enhanced Border Security and Visa Entry Reform Act  
 8 of 2002 (Public Law 107–173; 116 Stat. 548; 8 U.S.C.  
 9 1721(c)(3)(F)) is amended by striking “section 103(c)(6)  
 10 of the National Security Act of 1947 (50 U.S.C. 403–  
 11 3(c)(6))” and inserting “section 103(c)(7) of the National  
 12 Security Act of 1947 (50 U.S.C. 403–3(c)(7))”.

## 13 **TITLE IV—CENTRAL** 14 **INTELLIGENCE AGENCY**

### 15 **SEC. 401. AMENDMENT TO CERTAIN CENTRAL INTEL-** 16 **LIGENCE AGENCY ACT OF 1949 NOTIFICATION** 17 **REQUIREMENTS.**

18 Section 4(b)(5) of the Central Intelligence Agency  
 19 Act of 1949 (50 U.S.C. 403e(b)(5)) is amended inserting  
 20 “, other than regulations under paragraph (1),” after  
 21 “Regulations”.

1 **SEC. 402. PROTECTION OF CERTAIN CENTRAL INTEL-**  
2 **LIGENCE AGENCY PERSONNEL FROM TORT**  
3 **LIABILITY.**

4 Section 15 of the Central Intelligence Agency Act of  
5 1949 (50 U.S.C. 403o) is amended by adding at the end  
6 the following new subsection:

7 “(d)(1) Notwithstanding any other provision of law,  
8 any Agency personnel designated by the Director under  
9 subsection (a), or designated by the Director under section  
10 5(a)(4) to carry firearms for the protection of current or  
11 former Agency personnel and their immediate families, de-  
12 fectors and their immediate families, and other persons  
13 in the United States under Agency auspices, shall be con-  
14 sidered for purposes of chapter 171 of title 28, United  
15 States Code, or any other provision of law relating to tort  
16 liability, to be acting within the scope of their office or  
17 employment when such Agency personnel take reasonable  
18 action, which may include the use of force, to—

19 “(A) protect an individual in the presence of  
20 such Agency personnel from a crime of violence;

21 “(B) provide immediate assistance to an indi-  
22 vidual who has suffered or who is threatened with  
23 bodily harm; or

24 “(C) prevent the escape of any individual whom  
25 such Agency personnel reasonably believe to have

1 committed a crime of violence in the presence of  
2 such Agency personnel.

3 “(2) Paragraph (1) shall not affect the authorities  
4 of the Attorney General under section 2679(d)(1) of title  
5 28, United States Code.

6 “(3) In this subsection, the term ‘crime of violence’  
7 has the meaning given that term in section 16 of title 18,  
8 United States Code.”.

9 **SEC. 403. REPEAL OF OBSOLETE LIMITATION ON USE OF**  
10 **FUNDS IN CENTRAL SERVICES WORKING**  
11 **CAPITAL FUND.**

12 Section 21(f)(2) of the Central Intelligence Agency  
13 Act of 1949 (50 U.S.C. 403u(f)(2)) is amended—

14 (1) in subparagraph (A), by striking “(A) Sub-  
15 ject to subparagraph (B), the Director” and insert-  
16 ing “The Director”; and

17 (2) by striking subparagraph (B).

18 **SEC. 404. TECHNICAL AMENDMENT TO FEDERAL INFORMA-**  
19 **TION SECURITY MANAGEMENT ACT OF 2002.**

20 Section 3535(b)(1) of title 44, United States Code,  
21 as added by section 1001(b)(1) of the Homeland Security  
22 Act of 2002 (Public Law 107–296), and section  
23 3545(b)(1) of title 44, United States Code, as added by  
24 section 301(b)(1) of the E–Government Act of 2002 (Pub-

1 lic Law 107–347), are each amended by inserting “or any  
2 other law” after “1978”.

3 **TITLE V—DEPARTMENT OF DE-**  
4 **FENSE INTELLIGENCE MAT-**  
5 **TERS**

6 **SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NA-**  
7 **TIONAL SECURITY AGENCY.**

8 (a) CONSOLIDATION OF CURRENT PROVISIONS ON  
9 PROTECTION OF OPERATIONAL FILES.—The National Se-  
10 curity Act of 1947 (50 U.S.C. 401 et seq.) is amended  
11 by transferring sections 105C and 105D to the end of title  
12 VII and redesignating such sections, as so transferred, as  
13 sections 703 and 704, respectively.

14 (b) PROTECTION OF OPERATIONAL FILES OF  
15 NSA.—Title VII of such Act, as amended by subsection  
16 (a), is further amended by adding at the end the following  
17 new section:

18 “OPERATIONAL FILES OF THE NATIONAL SECURITY  
19 AGENCY

20 “SEC. 705. (a) EXEMPTION OF CERTAIN OPER-  
21 ATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION,  
22 OR DISCLOSURE.—(1) The Director of the National Secu-  
23 rity Agency, with the coordination of the Director of Cen-  
24 tral Intelligence, may exempt operational files of the Na-  
25 tional Security Agency from the provisions of section 552

1 of title 5, United States Code, which require publication;  
2 disclosure, search, or review in connection therewith.

3 “(2)(A) Subject to subparagraph (B), in this section,  
4 the term ‘operational files’ means files of the National Se-  
5 curity Agency (hereafter in this section referred to as  
6 ‘NSA’) which document the means by which foreign intel-  
7 ligence or counterintelligence is collected through technical  
8 systems.

9 “(B) Files which are the sole repository of dissemi-  
10 nated intelligence are not operational files.

11 “(3) Notwithstanding paragraph (1), exempted oper-  
12 ational files shall continue to be subject to search and re-  
13 view for information concerning—

14 “(A) United States citizens or aliens lawfully  
15 admitted for permanent residence who have re-  
16 quested information on themselves pursuant to the  
17 provisions of section 552 or 552a of title 5, United  
18 States Code;

19 “(B) any special activity the existence of which  
20 is not exempt from disclosure under the provisions  
21 of section 552 of title 5, United States Code; or

22 “(C) the specific subject matter of an investiga-  
23 tion by any of the following for any impropriety, or  
24 violation of law, Executive order, or Presidential di-  
25 rective, in the conduct of an intelligence activity.



1                   “(i) The Permanent Select Committee on  
2 Intelligence of the House of Representatives.

3                   “(ii) The Select Committee on Intelligence  
4 of the Senate.

5                   “(iii) The Intelligence Oversight Board.

6                   “(iv) The Department of Justice.

7                   “(v) The Office of General Counsel of  
8 NSA.

9                   “(vi) The Office of the Director of NSA.

10           “(4)(A) Files that are not exempted under paragraph  
11 (1) which contain information derived or disseminated  
12 from exempted operational files shall be subject to search  
13 and review.

14           “(B) The inclusion of information from exempted  
15 operational files in files that are not exempted under para-  
16 graph (1) shall not affect the exemption under paragraph  
17 (1) of the originating operational files from search, review,  
18 publication, or disclosure.

19           “(C) The declassification of some of the information  
20 contained in exempted operational files shall not affect the  
21 status of the operational file as being exempt from search,  
22 review, publication, or disclosure.

23           “(D) Records from exempted operational files which  
24 have been disseminated to and referenced in files that are  
25 not exempted under paragraph (1), and which have been

1 returned to exempted operational files for sole retention  
2 shall be subject to search and review.

3       ~~“(5) The provisions of paragraph (1) may not be su-~~  
4 ~~perseded except by a provision of law which is enacted~~  
5 ~~after the date of the enactment of the Intelligence Author-~~  
6 ~~ization Act for Fiscal Year 2004, and which specifically~~  
7 ~~cites and repeals or modifies such provisions.~~

8       ~~“(6)(A) Except as provided in subparagraph (B),~~  
9 ~~whenever any person who has requested agency records~~  
10 ~~under section 552 of title 5, United States Code, alleges~~  
11 ~~that NSA has withheld records improperly because of fail-~~  
12 ~~ure to comply with any provision of this section, judicial~~  
13 ~~review shall be available under the terms set forth in sec-~~  
14 ~~tion 552(a)(4)(B) of title 5, United States Code.~~

15       ~~“(B) Judicial review shall not be available in the~~  
16 ~~manner provided for under subparagraph (A) as follows:~~

17           ~~“(i) In any case in which information specifi-~~  
18 ~~cally authorized under criteria established by an Ex-~~  
19 ~~ecutive order to be kept secret in the interests of na-~~  
20 ~~tional defense or foreign relations is filed with, or~~  
21 ~~produced for, the court by NSA, such information~~  
22 ~~shall be examined ex parte, in camera by the court.~~

23           ~~“(ii) The court shall determine, to the fullest~~  
24 ~~extent practicable, the issues of fact based on sworn~~  
25 ~~written submissions of the parties.~~

1           “(iii) When a complainant alleges that re-  
2           quested records are improperly withheld because of  
3           improper placement solely in exempted operational  
4           files, the complainant shall support such allegation  
5           with a sworn written submission based upon per-  
6           sonal knowledge or otherwise admissible evidence.

7           “(iv)(I) When a complainant alleges that re-  
8           quested records were improperly withheld because of  
9           improper exemption of operational files, NSA shall  
10          meet its burden under section 552(a)(4)(B) of title  
11          5, United States Code, by demonstrating to the  
12          court by sworn written submission that exempted  
13          operational files likely to contain responsible records  
14          currently perform the functions set forth in para-  
15          graph (2).

16          “(H) The court may not order NSA to review  
17          the content of any exempted operational file or files  
18          in order to make the demonstration required under  
19          subclause (I), unless the complainant disputes  
20          NSA’s showing with a sworn written submission  
21          based on personal knowledge or otherwise admissible  
22          evidence.

23          “(v) In proceedings under clauses (iii) and (iv),  
24          the parties may not obtain discovery pursuant to  
25          rules 26 through 36 of the Federal Rules of Civil

1 Procedure, except that requests for admissions may  
2 be made pursuant to rules 26 and 36.

3 “(vi) If the court finds under this paragraph  
4 that NSA has improperly withheld requested records  
5 because of failure to comply with any provision of  
6 this subsection, the court shall order NSA to search  
7 and review the appropriate exempted operational file  
8 or files for the requested records and make such  
9 records, or portions thereof, available in accordance  
10 with the provisions of section 552 of title 5, United  
11 States Code, and such order shall be the exclusive  
12 remedy for failure to comply with this subsection.

13 “(vii) If at any time following the filing of a  
14 complaint pursuant to this paragraph NSA agrees to  
15 search the appropriate exempted operational file or  
16 files for the requested records, the court shall dis-  
17 miss the claim based upon such complaint.

18 “(viii) Any information filed with, or produced  
19 for the court pursuant to clauses (i) and (iv) shall  
20 be coordinated with the Director of Central Intel-  
21 ligence before submission to the court.

22 “(b) DECENNIAL REVIEW OF EXEMPTED OPER-  
23 ATIONAL FILES.—(1) Not less than once every 10 years,  
24 the Director of the National Security Agency and the Di-  
25 rector of Central Intelligence shall review the exemptions

1 in force under subsection (a)(1) to determine whether such  
2 exemptions may be removed from a category of exempted  
3 files or any portion thereof. The Director of Central Intel-  
4 ligence must approve any determination to remove such  
5 exemptions.

6 “(2) The review required by paragraph (1) shall in-  
7 clude consideration of the historical value or other public  
8 interest in the subject matter of a particular category of  
9 files or portions thereof and the potential for declassifying  
10 a significant part of the information contained therein.

11 “(3) A complainant that alleges that NSA has im-  
12 properly withheld records because of failure to comply with  
13 this subsection may seek judicial review in the district  
14 court of the United States of the district in which any  
15 of the parties reside, or in the District of Columbia. In  
16 such a proceeding, the court’s review shall be limited to  
17 determining the following:

18 “(A) Whether NSA has conducted the review  
19 required by paragraph (1) before the expiration of  
20 the 10-year period beginning on the date of the en-  
21 actment of the National Defense Authorization Act  
22 for Fiscal Year 2004 or before the expiration of the  
23 10-year period beginning on the date of the most re-  
24 cent review.

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking “For purposes of this title” and inserting “In this section and section 702,”.

(2) Section 702(e) of such Act (50 U.S.C. 432(e)) is amended by striking “enactment of this title” and inserting “October 15, 1984,”.

11       (3)(A) The title heading for title VII of such Act is  
12 amended to read as follows:

13     ~~“TITLE VII—PROTECTION OF OPERATIONAL~~  
14                     ~~FILES”.~~

15       (B) The section heading for section 701 of such Act  
16 is amended to read as follows:

17 "PROTECTION OF OPERATIONAL FILES OF THE CENTRAL  
18 INTELLIGENCE AGENCY";

19           (C) The section heading for section 702 of such Act  
20 is amended to read as follows:

21 “DECENNIAL REVIEW OF EXEMPTED CENTRAL  
22 INTELLIGENCE AGENCY OPERATIONAL FILES.”

23 (d) CLERICAL AMENDMENTS.—The table of contents  
24 for the National Security Act of 1947 is amended—

25 (1) by striking the items relating to sections  
26 105C and 105D; and

1           (2) by striking the items relating to title VII  
2           and inserting the following new items:

“TITLE VII—PROTECTION OF OPERATIONAL FILES

“Sec. 701. Protection of operational files of the Central Intelligence Agency.

“Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.

“Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.

“Sec. 704. Protection of operational files of the National Reconnaissance Office.

“Sec. 705. Protection of operational files of the National Security Agency.”

3   **SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NA-**  
4                                   **TIONAL SECURITY AGENCY.**

5           (a) *CONSOLIDATION OF CURRENT PROVISIONS ON*  
6   *PROTECTION OF OPERATIONAL FILES.—The National Se-*  
7   *curity Act of 1947 (50 U.S.C. 401 et seq.) is amended by*  
8   *transferring sections 105C and 105D to the end of title VII*  
9   *and redesignating such sections, as so transferred, as sec-*  
10   *tions 703 and 704, respectively.*

11          (b) *PROTECTION OF OPERATIONAL FILES OF NSA.—*  
12   *Title VII of such Act, as amended by subsection (a), is fur-*  
13   *ther amended by adding at the end the following new sec-*  
14   *tion:*

15    “*OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY*

16           “*SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL*  
17    *FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLO-*  
18    *SURE.—(1) Operational files of the National Security Agen-*  
19    *cy (hereafter in this section referred to as ‘NSA’) may be*  
20    *exempted by the Director of NSA, in coordination with the*

1 *Director of Central Intelligence, from the provisions of sec-*  
2 *tion 552 of title 5, United States Code, which require publi-*  
3 *cation, disclosure, search, or review in connection therewith.*

4 “(2)(A) *In this section, the term ‘operational files’*  
5 *means—*

6 “(i) *files of the Signals Intelligence Directorate,*  
7 *and its successor organizations, which document the*  
8 *means by which foreign intelligence or counterintel-*  
9 *ligence is collected through technical systems; and*

10 “(ii) *files of the Research Associate Directorate,*  
11 *and its successor organizations, which document the*  
12 *means by which foreign intelligence or counterintel-*  
13 *ligence is collected through scientific and technical*  
14 *systems.*

15 “(B) *Files which are the sole repository of dissemi-*  
16 *nated intelligence, and files that have been accessioned into*  
17 *NSA Archives, or its successor organizations, are not oper-*  
18 *ational files.*

19 “(3) *Notwithstanding paragraph (1), exempted oper-*  
20 *ational files shall continue to be subject to search and review*  
21 *for information concerning—*

22 “(A) *United States citizens or aliens lawfully*  
23 *admitted for permanent residence who have requested*  
24 *information on themselves pursuant to the provisions*  
25 *of section 552 or 552a of title 5, United States Code;*



1           “(B) any special activity the existence of which  
2           is not exempt from disclosure under the provisions of  
3           section 552 of title 5, United States Code; or

4           “(C) the specific subject matter of an investiga-  
5           tion by any of the following for any impropriety, or  
6           violation of law, Executive order, or Presidential di-  
7           rective, in the conduct of an intelligence activity:

8                   “(i) The Committee on Armed Services and  
9                   the Permanent Select Committee on Intelligence  
10                  of the House of Representatives.

11                  “(ii) The Committee on Armed Services and  
12                  the Select Committee on Intelligence of the Sen-  
13                  ate.

14                  “(iii) The Intelligence Oversight Board.

15                  “(iv) The Department of Justice.

16                  “(v) The Office of General Counsel of NSA.

17                  “(vi) The Office of the Inspector General of  
18                  the Department of Defense.

19                  “(vii) The Office of the Director of NSA.

20           “(4)(A) Files that are not exempted under paragraph  
21           (1) which contain information derived or disseminated  
22           from exempted operational files shall be subject to search  
23           and review.

24           “(B) The inclusion of information from exempted oper-  
25           ational files in files that are not exempted under paragraph

1 *(1) shall not affect the exemption under paragraph (1) of*  
2 *the originating operational files from search, review, publi-*  
3 *cation, or disclosure.*

4       “(C) *The declassification of some of the information*  
5 *contained in exempted operational files shall not affect the*  
6 *status of the operational file as being exempt from search,*  
7 *review, publication, or disclosure.*

8       “(D) *Records from exempted operational files which*  
9 *have been disseminated to and referenced in files that are*  
10 *not exempted under paragraph (1), and which have been*  
11 *returned to exempted operational files for sole retention*  
12 *shall be subject to search and review.*

13       “(5) *The provisions of paragraph (1) may not be su-*  
14 *perseded except by a provision of law which is enacted after*  
15 *the date of the enactment of the Intelligence Authorization*  
16 *Act for Fiscal Year 2004, and which specifically cites and*  
17 *repeals or modifies such provisions.*

18       “(6)(A) *Except as provided in subparagraph (B),*  
19 *whenever any person who has requested agency records*  
20 *under section 552 of title 5, United States Code, alleges that*  
21 *NSA has withheld records improperly because of failure to*  
22 *comply with any provision of this section, judicial review*  
23 *shall be available under the terms set forth in section*  
24 *552(a)(4)(B) of title 5, United States Code.*

1       “(B) *Judicial review shall not be available in the man-*  
2 *ner provided for under subparagraph (A) as follows:*

3               “(i) *In any case in which information specifi-*  
4 *cally authorized under criteria established by an Ex-*  
5 *ecutive order to be kept secret in the interests of na-*  
6 *tional defense or foreign relations is filed with, or*  
7 *produced for, the court by NSA, such information*  
8 *shall be examined ex parte, in camera by the court.*

9               “(ii) *The court shall determine, to the fullest ex-*  
10 *tent practicable, the issues of fact based on sworn*  
11 *written submissions of the parties.*

12              “(iii) *When a complainant alleges that requested*  
13 *records are improperly withheld because of improper*  
14 *placement solely in exempted operational files, the*  
15 *complainant shall support such allegation with a*  
16 *sworn written submission based upon personal knowl-*  
17 *edge or otherwise admissible evidence.*

18              “(iv)(I) *When a complainant alleges that re-*  
19 *quested records were improperly withheld because of*  
20 *improper exemption of operational files, NSA shall*  
21 *meet its burden under section 552(a)(4)(B) of title 5,*  
22 *United States Code, by demonstrating to the court by*  
23 *sworn written submission that exempted operational*  
24 *files likely to contain responsible records currently*  
25 *perform the functions set forth in paragraph (2).*

1           “(II) The court may not order NSA to review the  
2           content of any exempted operational file or files in  
3           order to make the demonstration required under sub-  
4           clause (I), unless the complainant disputes NSA’s  
5           showing with a sworn written submission based on  
6           personal knowledge or otherwise admissible evidence.

7           “(v) In proceedings under clauses (iii) and (iv),  
8           the parties may not obtain discovery pursuant to  
9           rules 26 through 36 of the Federal Rules of Civil Pro-  
10          cedure, except that requests for admissions may be  
11          made pursuant to rules 26 and 36.

12          “(vi) If the court finds under this paragraph  
13          that NSA has improperly withheld requested records  
14          because of failure to comply with any provision of  
15          this subsection, the court shall order NSA to search  
16          and review the appropriate exempted operational file  
17          or files for the requested records and make such  
18          records, or portions thereof, available in accordance  
19          with the provisions of section 552 of title 5, United  
20          States Code, and such order shall be the exclusive  
21          remedy for failure to comply with this subsection.

22          “(vii) If at any time following the filing of a  
23          complaint pursuant to this paragraph NSA agrees to  
24          search the appropriate exempted operational file or

1        *files for the requested records, the court shall dismiss*  
 2        *the claim based upon such complaint.*

3            *“(viii) Any information filed with, or produced*  
 4        *for the court pursuant to clauses (i) and (iv) shall be*  
 5        *coordinated with the Director of Central Intelligence*  
 6        *before submission to the court.*

7            *“(b) DECENNIAL REVIEW OF EXEMPTED OPER-*  
 8        *ATIONAL FILES.—(1) Not less than once every 10 years, the*  
 9        *Director of the National Security Agency and the Director*  
 10       *of Central Intelligence shall review the exemptions in force*  
 11       *under subsection (a)(1) to determine whether such exemp-*  
 12       *tions may be removed from a category of exempted files or*  
 13       *any portion thereof. The Director of Central Intelligence*  
 14       *must approve any determination to remove such exemp-*  
 15       *tions.*

16           *“(2) The review required by paragraph (1) shall in-*  
 17       *clude consideration of the historical value or other public*  
 18       *interest in the subject matter of a particular category of*  
 19       *files or portions thereof and the potential for declassifying*  
 20       *a significant part of the information contained therein.*

21           *“(3) A complainant that alleges that NSA has improv-*  
 22       *erly withheld records because of failure to comply with this*  
 23       *subsection may seek judicial review in the district court of*  
 24       *the United States of the district in which any of the parties*  
 25       *reside, or in the District of Columbia. In such a proceeding,*



1     “PROTECTION OF OPERATIONAL FILES OF THE CENTRAL  
2                                   INTELLIGENCE AGENCY”.

3           (C) *The section heading for section 702 of such Act*  
4 *is amended to read as follows:*

5           “DECENNIAL REVIEW OF EXEMPTED CENTRAL  
6           INTELLIGENCE AGENCY OPERATIONAL FILES”.

7           (d) *CLERICAL AMENDMENTS.—The table of contents*  
8 *for the National Security Act of 1947 is amended—*

9                   (1) *by striking the items relating to sections*  
10 *105C and 105D; and*

11                   (2) *by striking the items relating to title VII and*  
12 *inserting the following new items:*

“TITLE VII—PROTECTION OF OPERATIONAL FILES

“Sec. 701. *Protection of operational files of the Central Intelligence Agency.*

“Sec. 702. *Decennial review of exempted Central Intelligence Agency operational*  
*files.*

“Sec. 703. *Protection of operational files of the National Imagery and Mapping*  
*Agency.*

“Sec. 704. *Protection of operational files of the National Reconnaissance Office.*

“Sec. 705. *Protection of operational files of the National Security Agency.*”.

13 **SEC. 502. PROVISION OF AFFORDABLE LIVING QUARTERS**  
14 **FOR CERTAIN STUDENTS WORKING AT NA-**  
15 **TIONAL SECURITY AGENCY LABORATORY.**

16     Section 2195 of title 10, United States Code, is  
17 amended by adding at the end the following new sub-  
18 section:

19     “(d)(1) The Director of the National Security Agency  
20 may provide affordable living quarters to a student in the  
21 Student Educational Employment Program or similar pro-

1 gram (as prescribed by the Office of Personnel Manage-  
 2 ment) while the student is employed at the laboratory of  
 3 the Agency.

4 “(2) Notwithstanding section 5911(c) of title 5, living  
 5 quarters may be provided under paragraph (1) without  
 6 charge, or at rates or charges specified in regulations pre-  
 7 scribed by the Director.”

8 **SEC. 503 502. PROTECTION OF CERTAIN NATIONAL SECU-**  
 9 **RITY AGENCY PERSONNEL FROM TORT LI-**  
 10 **ABILITY.**

11 Section 11 of the National Security Agency Act of  
 12 1959 (50 U.S.C. 402 note) is amended by adding at the  
 13 end the following new subsection:

14 “(d)(1) Notwithstanding any other provision of law,  
 15 agency personnel designated by the Director of the Na-  
 16 tional Security Agency under subsection (a) shall be con-  
 17 sidered for purposes of chapter 171 of title 28, United  
 18 States Code, or any other provision of law relating to tort  
 19 liability, to be acting within the scope of their office or  
 20 employment when such agency personnel take reasonable  
 21 action, which may include the use of force, to—

22 “(A) protect an individual in the presence of  
 23 such agency personnel from a crime of violence;



1           “(B) provide immediate assistance to an indi-  
 2           vidual who has suffered or who is threatened with  
 3           bodily harm; or

4           “(C) prevent the escape of any individual whom  
 5           such agency personnel reasonably believe to have  
 6           committed a crime of violence in the presence of  
 7           such agency personnel.

8           “(2) Paragraph (1) shall not affect the authorities  
 9           of the Attorney General under section 2679(d)(1) of title  
 10          28, United States Code.

11          “(3) In this subsection, the term ‘crime of violence’  
 12          has the meaning given that term in section 16 of title 18,  
 13          United States Code.”.

14   **SEC. 504. AUTHORITY FOR INTELLIGENCE COMMUNITY**  
 15                   **ELEMENTS OF DEPARTMENT OF DEFENSE TO**  
 16                   **AWARD PERSONAL SERVICE CONTRACTS.**

17          ~~(a) AUTHORITY.—Notwithstanding any other provi-~~  
 18          ~~sion of law, amounts appropriated or otherwise made~~  
 19          ~~available to a covered component of the Department of~~  
 20          ~~Defense may be expended for personal service contracts~~  
 21          ~~necessary to carry out the mission of the covered compo-~~  
 22          ~~nent, including personal services without regard to limita-~~  
 23          ~~tions on types of persons to be employed.~~

24          ~~(b) COVERED COMPONENT OF THE DEPARTMENT OF~~  
 25          ~~DEFENSE DEFINED.—In this section, the term “covered~~

1 component of the Department of Defense” means any ele-  
2 ment of the Department of Defense that is a component  
3 of the intelligence community as set forth in or designated  
4 under section 3(4) of the National Security Act of 1934  
5 (50 U.S.C. 401a(4)).



**Calendar No. 172**

108TH CONGRESS  
1ST SESSION

**S. 1025**

**[Report No. 108–44]  
[Report No. 108–80]**

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**A BILL**

To authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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JUNE 26, 2003

Reported with amendments