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109TH CONGRESS
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S. 1803

[Report No. 109–142]

[Report No. 109–173]

To authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2005

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, as amended by S. Res. 445, 108th Congress, for a period not to exceed 10 days of session

OCTOBER 27, 2005

Reported by Mr. WARNER, with amendments

[Omit the part struck through and insert the part printed in *italie*]

A BILL

To authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Intelligence Authorization Act for Fiscal Year 2006”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
 Sec. 102. Classified schedule of authorizations.
 Sec. 103. Incorporation of classified annex.
 Sec. 104. Personnel ceiling adjustments.
 Sec. 105. Intelligence Community Management Account.
 Sec. 106. Incorporation of reporting requirements.
 Sec. 107. Response of intelligence community to requests from Congress for in-
 telligence documents and information.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
 DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—INTELLIGENCE AND GENERAL INTELLIGENCE
 COMMUNITY MATTERS

Sec. 301. Increase in employee compensation and benefits authorized by law.
 Sec. 302. Restriction on conduct of intelligence activities.
 Sec. 303. Clarification of definition of intelligence community under the Na-
 tional Security Act of 1947.
 Sec. 304. Delegation of authority for travel on common carriers for intelligence
 collection personnel.
 Sec. 305. Modification of availability of funds for different intelligence activi-
 ties.
 Sec. 306. Retention and use of amounts paid as debts to elements of the intel-
 ligence community.
 Sec. 307. Pilot program on disclosure of records under the Privacy Act relating
 to certain intelligence activities.
 Sec. 308. Extension to intelligence community of authority to delete informa-
 tion about receipt and disposition of foreign gifts and decora-
 tions.
 Sec. 309. Availability of funds for travel and transportation of personal effects,
 household goods, and automobiles.

TITLE IV—MATTERS RELATING TO ELEMENTS OF THE
 INTELLIGENCE COMMUNITY

Subtitle A—Office of the Director of National Intelligence

- Sec. 401. Additional authorities of the Director of National Intelligence on intelligence information sharing.
- Sec. 402. Modification of limitation on delegation by the Director of National Intelligence of the protection of intelligence sources and methods.
- Sec. 403. Authority of the Director of National Intelligence to manage access to human intelligence information.
- Sec. 404. Additional administrative authority of the Director of National Intelligence.
- Sec. 405. Clarification of limitation on co-location of the Office of the Director of National Intelligence.
- Sec. 406. Additional duties of the Director of Science and Technology of the Office of the Director of National Intelligence.
- Sec. 407. Appointment and title of Chief Information Officer of the Intelligence Community.
- Sec. 408. Inspector General of the Intelligence Community.
- Sec. 409. Leadership and location of National Counter Proliferation Center.
- Sec. 410. Operational files in the Office of the Director of National Intelligence.
- Sec. 411. Eligibility for incentive awards of personnel assigned to the Office of the Director of National Intelligence.
- Sec. 412. Repeal of certain authorities relating to the Office of the National Counterintelligence Executive.
- Sec. 413. Inapplicability of Federal Advisory Committee Act to advisory committees of the Office of the Director of National Intelligence.
- Sec. 414. Membership of the Director of National Intelligence on the Transportation Security Oversight Board.
- Sec. 415. Temporary inapplicability to the Office of the Director of National Intelligence of certain financial reporting requirements.
- Sec. 416. Applicability of the Privacy Act to the Director of National Intelligence and the Office of the Director of National Intelligence.
- Sec. 417. Temporary exemption from personnel limits of certain office of Director of National Intelligence personnel assigned to the National Counterterrorism Center.

Subtitle B—Central Intelligence Agency

- Sec. 421. Director and Deputy Director of the Central Intelligence Agency.
- Sec. 422. Enhanced protection of Central Intelligence Agency intelligence sources and methods from unauthorized disclosure.
- Sec. 423. Additional exception to foreign language proficiency requirement for certain senior level positions in the Central Intelligence Agency.
- Sec. 424. Exclusion of the Central Intelligence Agency from annual report on improvement of financial statements for auditing purposes.
- Sec. 425. Additional functions and authorities for protective personnel of the Central Intelligence Agency.
- ~~Sec. 426. Modification of exclusion of military officer serving as Associate Director of the Central Intelligence Agency for Military Support from officer strength and distribution-in-grade limitations.~~

Subtitle C—Defense Intelligence Components

- Sec. 431. Modification of requirements on disclosure of governmental affiliation by Department of Defense intelligence personnel.
- Sec. 432. Enhancements of National Security Agency training program.

- Sec. 433. Codification of authorities of National Security Agency protective personnel.
- Sec. 434. Protection of operational files of the Defense Intelligence Agency.
- Sec. 435. Inspector General matters.
- Sec. 436. Confirmation of appointment of heads of certain components of the intelligence community.
- Sec. 437. Security clearances in the National Geospatial-Intelligence Agency.
- Sec. 438. *Sense of Congress on funding of the COBRA JUDY Replacement program.*

Subtitle D—Other Elements

- Sec. 441. Department of Justice intelligence matters.
- Sec. 442. Foreign language incentive for certain non-special agent employees of the Federal Bureau of Investigation.
- Sec. 443. Authority to secure services by contract for the Bureau of Intelligence and Research of the Department of State.
- Sec. 444. Clarification of inclusion of Coast Guard element in the intelligence community.
- Sec. 445. Clarifying amendments relating to section 105 of the Intelligence Authorization Act for Fiscal Year 2004.

TITLE V—OTHER MATTERS

- Sec. 501. Technical amendments to the National Security Act of 1947.
- Sec. 502. Technical clarification of certain references to Joint Military Intelligence Program and Tactical Intelligence and Related Activities.
- Sec. 503. Technical amendments to the Intelligence Reform and Terrorism Prevention Act of 2004.
- Sec. 504. Technical amendment to the Central Intelligence Agency Act of 1949.
- Sec. 505. Technical amendments relating to the multiyear national intelligence program.
- Sec. 506. Technical amendments to the Executive Schedule.
- Sec. 507. Technical amendments relating to redesignation of the National Imagery and Mapping Agency as the National Geospatial-Intelligence Agency.

1 **TITLE I—INTELLIGENCE** 2 **ACTIVITIES**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 Funds are hereby authorized to be appropriated for
5 fiscal year 2006 for the conduct of the intelligence and
6 intelligence-related activities of the following elements of
7 the United States Government:

1 (1) The Office of the Director of National Intel-
2 ligence.

3 (2) The Central Intelligence Agency.

4 (3) The Department of Defense.

5 (4) The Defense Intelligence Agency.

6 (5) The National Security Agency.

7 (6) The Department of the Army, the Depart-
8 ment of the Navy, and the Department of the Air
9 Force.

10 (7) The Department of State.

11 (8) The Department of the Treasury.

12 (9) The Department of Energy.

13 (10) The Department of Justice.

14 (11) The Federal Bureau of Investigation.

15 (12) The National Reconnaissance Office.

16 (13) The National Geospatial-Intelligence Agen-
17 cy.

18 (14) The Coast Guard.

19 (15) The Department of Homeland Security.

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

21 (a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL
22 CEILINGS.—The amounts authorized to be appropriated
23 under section 101, and the authorized personnel ceilings
24 as of September 30, 2006, for the conduct of the intel-
25 ligence and intelligence-related activities of the elements

1 listed in such section, are those specified in the classified
2 Schedule of Authorizations prepared to accompany the
3 conference report on the bill _____ of the One Hun-
4 dred Ninth Congress and in the Classified Annex to such
5 report as incorporated in this Act under section 103.

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

13 **SEC. 103. INCORPORATION OF CLASSIFIED ANNEX.**

14 (a) STATUS OF CLASSIFIED ANNEX.—The Classified
15 Annex prepared by the Select Committee on Intelligence
16 of the Senate to accompany its report on the bill S. 1803
17 of the One Hundred Ninth Congress and transmitted to
18 the President is hereby incorporated into this Act.

19 (b) CONSTRUCTION WITH OTHER PROVISIONS OF
20 ACT.—Unless otherwise specifically stated, the amounts
21 specified in the Classified Annex are not in addition to
22 amounts authorized to be appropriated by other provisions
23 of this Act.

24 (c) LIMITATION ON USE OF FUNDS.—Funds appro-
25 priated pursuant to an authorization contained in this Act

1 that are made available for a program, project, or activity
2 referred to in the Classified Annex may only be expended
3 for such program, project, or activity in accordance with
4 such terms, conditions, limitations, restrictions, and re-
5 quirements as are set out for that program, project, or
6 activity in the Classified Annex.

7 (d) DISTRIBUTION OF CLASSIFIED ANNEX.—The
8 President shall provide for appropriate distribution of the
9 Classified Annex, or of appropriate portions of the annex,
10 within the executive branch of the Government.

11 **SEC. 104. PERSONNEL CEILING ADJUSTMENTS.**

12 (a) AUTHORITY FOR ADJUSTMENTS.—With the ap-
13 proval of the Director of the Office of Management and
14 Budget, the Director of National Intelligence may author-
15 ize employment of civilian personnel in excess of the num-
16 ber authorized for fiscal year 2006 under section 102
17 when the Director of National Intelligence determines that
18 such action is necessary to the performance of important
19 intelligence functions, except that the number of personnel
20 employed in excess of the number authorized under such
21 section may not, for any element of the intelligence com-
22 munity, exceed 2 percent of the number of civilian per-
23 sonnel authorized under such section for such element.

24 (b) NOTICE TO INTELLIGENCE COMMITTEES.—The
25 Director of National Intelligence shall promptly notify the

1 Select Committee on Intelligence of the Senate and the
2 Permanent Select Committee on Intelligence of the House
3 of Representatives whenever the Director exercises the au-
4 thority granted by this section.

5 **SEC. 105. INTELLIGENCE COMMUNITY MANAGEMENT AC-**
6 **COUNT.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated for the Intelligence Commu-
9 nity Management Account of the Director of National In-
10 telligence for fiscal year 2006 the sum of \$1,014,362,000.
11 Within such amount, funds identified in the classified
12 Schedule of Authorizations referred to in section 102(a)
13 for advanced research and development shall remain avail-
14 able until September 30, 2007.

15 (b) AUTHORIZED PERSONNEL LEVELS.—The ele-
16 ments within the Intelligence Community Management
17 Account of the Director of National Intelligence are au-
18 thorized 882 full-time personnel as of September 30,
19 2006. Personnel serving in such elements may be perma-
20 nent employees of the Intelligence Community Manage-
21 ment Account or personnel detailed from other elements
22 of the United States Government.

23 (c) CLASSIFIED AUTHORIZATIONS.—

24 (1) AUTHORIZATION OF APPROPRIATIONS.—In
25 addition to amounts authorized to be appropriated

1 for the Intelligence Community Management Ac-
2 count by subsection (a), there are also authorized to
3 be appropriated for the Intelligence Community
4 Management Account for fiscal year 2006 such addi-
5 tional amounts as are specified in the classified
6 Schedule of Authorizations referred to in section
7 102(a). Such additional amounts for research and
8 development shall remain available until September
9 30, 2007.

10 (2) AUTHORIZATION OF PERSONNEL.—In addi-
11 tion to the personnel authorized by subsection (b)
12 for elements of the Intelligence Community Manage-
13 ment Account as of September 30, 2006, there are
14 also authorized such additional personnel for such
15 elements as of that date as are specified in the clas-
16 sified Schedule of Authorizations.

17 (d) REIMBURSEMENT.—Except as provided in section
18 113 of the National Security Act of 1947 (50 U.S.C.
19 404h), during fiscal year 2006 any officer or employee of
20 the United States or a member of the Armed Forces who
21 is detailed to the staff of the Intelligence Community Man-
22 agement Account from another element of the United
23 States Government shall be detailed on a reimbursable
24 basis, except that any such officer, employee, or member
25 may be detailed on a nonreimbursable basis for a period

1 of less than one year for the performance of temporary
2 functions as required by the Director of National Intel-
3 ligence.

4 (e) NATIONAL DRUG INTELLIGENCE CENTER.—

5 (1) IN GENERAL.—Of the amount authorized to
6 be appropriated in subsection (a), \$17,000,000 shall
7 be available for the National Drug Intelligence Cen-
8 ter. Within such amount, funds provided for re-
9 search, development, testing, and evaluation pur-
10 poses shall remain available until September 30,
11 2007, and funds provided for procurement purposes
12 shall remain available until September 30, 2008.

13 (2) TRANSFER OF FUNDS.—The Director of
14 National Intelligence shall transfer to the Attorney
15 General funds available for the National Drug Intel-
16 ligence Center under paragraph (1). The Attorney
17 General shall utilize funds so transferred for the ac-
18 tivities of the National Drug Intelligence Center.

19 (3) LIMITATION.—Amounts available for the
20 National Drug Intelligence Center may not be used
21 in contravention of the provisions of section
22 104A(e)(1) of the National Security Act of 1947 (as
23 redesignated by section 421(b)(1) of this Act).

24 (4) AUTHORITY.—Notwithstanding any other
25 provision of law, the Attorney General shall retain

1 full authority over the operations of the National
2 Drug Intelligence Center.

3 **SEC. 106. INCORPORATION OF REPORTING REQUIRE-**
4 **MENTS.**

5 (a) IN GENERAL.—Each requirement to submit a re-
6 port to the congressional intelligence committees that is
7 included in the joint explanatory statement to accompany
8 the conference report on the bill _____ of the One
9 Hundred Ninth Congress, or in the classified annex to this
10 Act, is hereby incorporated into this Act, and is hereby
11 made a requirement in law.

12 (b) CONGRESSIONAL INTELLIGENCE COMMITTEES
13 DEFINED.—In this section, the term “congressional intel-
14 ligence committees” means—

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

17 (2) the Permanent Select Committee on Intel-
18 ligence of the House of Representatives.

19 **SEC. 107. RESPONSE OF INTELLIGENCE COMMUNITY TO**
20 **REQUESTS FROM CONGRESS FOR INTEL-**
21 **LIGENCE DOCUMENTS AND INFORMATION.**

22 (a) IN GENERAL.—Title V of the National Security
23 Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding
24 at the end the following new section:

1 “RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS
2 FROM CONGRESS FOR INTELLIGENCE DOCUMENTS
3 AND INFORMATION

4 “SEC. 508. (a) REQUESTS OF COMMITTEES.—The
5 Director of National Intelligence, the Director of the Na-
6 tional Counterterrorism Center, the Director of a national
7 intelligence center, or the head of any other department,
8 agency, or element of the Federal Government, or other
9 organization within the Executive branch, that is an ele-
10 ment of the intelligence community shall, not later than
11 15 days after receiving a request for any intelligence as-
12 sessment, report, estimate, legal opinion, or other intel-
13 ligence information from the Select Committee on Intel-
14 ligence of the Senate, the Permanent Select Committee on
15 Intelligence of the House of Representatives, or any other
16 committee of Congress with jurisdiction over the subject
17 matter to which information in such assessment, report,
18 estimate, legal opinion, or other information relates, make
19 available to such committee such assessment, report, esti-
20 mate, legal opinion, or other information, as the case may
21 be.

22 “(b) REQUESTS OF CERTAIN MEMBERS.—(1) The
23 Director of National Intelligence, the Director of the Na-
24 tional Counterterrorism Center, the Director of a national
25 intelligence center, or the head of any other department,

1 agency, or element of the Federal Government, or other
2 organization within the Executive branch, that is an ele-
3 ment of the intelligence community shall respond, in the
4 time specified in subsection (a), to a request described in
5 that subsection from the Chairman or Vice Chairman of
6 the Select Committee on Intelligence of the Senate or the
7 Chairman or Ranking Member of the Permanent Select
8 Committee on Intelligence of the House of Representa-
9 tives.

10 “(2) Upon making a request covered by paragraph
11 (1)—

12 “(A) the Chairman or Vice Chairman, as the
13 case may be, of the Select Committee on Intelligence
14 of the Senate shall notify the other of the Chairman
15 or Vice Chairman of such request; and

16 “(B) the Chairman or Ranking Member, as the
17 case may be, of the Permanent Select Committee on
18 Intelligence of the House of Representatives shall
19 notify the other of the Chairman or Ranking Mem-
20 ber of such request.

21 “(c) ASSERTION OF PRIVILEGE.—In response to a re-
22 quest covered by subsection (a) or (b), the Director of Na-
23 tional Intelligence, the Director of the National
24 Counterterrorism Center, the Director of a national intel-
25 ligence center, or the head of any other department, agen-

1 cy, or element of the Federal Government, or other organi-
 2 zation within the Executive branch, that is an element of
 3 the intelligence community shall provide the document or
 4 information covered by such request unless the President
 5 certifies that such document or information is not being
 6 provided because the President is asserting a privilege
 7 pursuant to the Constitution of the United States.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
 9 in the first section of that Act is amended by inserting
 10 after the item relating to section 507 the following new
 11 item:

“Sec. 508. Response of intelligence community to requests from Congress for
 intelligence documents and information.”.

12 **TITLE II—CENTRAL INTEL-**
 13 **LIGENCE AGENCY RETIRE-**
 14 **MENT AND DISABILITY SYS-**
 15 **TEM**

16 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

17 There is authorized to be appropriated for the Cen-
 18 tral Intelligence Agency Retirement and Disability Fund
 19 for fiscal year 2006 the sum of \$244,600,000.

1 **TITLE III—INTELLIGENCE AND**
2 **GENERAL INTELLIGENCE**
3 **COMMUNITY MATTERS**

4 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**
5 **BENEFITS AUTHORIZED BY LAW.**

6 Appropriations authorized by this Act for salary, pay,
7 retirement, and other benefits for Federal employees may
8 be increased by such additional or supplemental amounts
9 as may be necessary for increases in such compensation
10 or benefits authorized by law.

11 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
12 **ACTIVITIES.**

13 The authorization of appropriations by this Act shall
14 not be deemed to constitute authority for the conduct of
15 any intelligence activity which is not otherwise authorized
16 by the Constitution or the laws of the United States.

17 **SEC. 303. CLARIFICATION OF DEFINITION OF INTEL-**
18 **LIGENCE COMMUNITY UNDER THE NATIONAL**
19 **SECURITY ACT OF 1947.**

20 Subparagraph (L) of section 3(4) of the National Se-
21 curity Act of 1947 (50 U.S.C. 401a(4)) is amended by
22 striking “other” the second place it appears.

1 **SEC. 304. DELEGATION OF AUTHORITY FOR TRAVEL ON**
2 **COMMON CARRIERS FOR INTELLIGENCE**
3 **COLLECTION PERSONNEL.**

4 (a) DELEGATION OF AUTHORITY.—Section 116(b) of
5 the National Security Act of 1947 (50 U.S.C. 404k(b))
6 is amended—

7 (1) by inserting “(1)” before “The Director”;

8 (2) in paragraph (1), by striking “may only del-
9 egate” and all that follows and inserting “may dele-
10 gate the authority in subsection (a) to the head of
11 any other element of the intelligence community.”;
12 and

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

15 “(2) The head of an element of the intelligence com-
16 munity to whom the authority in subsection (a) is dele-
17 gated pursuant to paragraph (1) may further delegate
18 such authority to such senior officials of such element as
19 are specified in guidelines prescribed by the Director of
20 National Intelligence for purposes of this paragraph.”.

21 (b) SUBMITTAL OF GUIDELINES TO CONGRESS.—Not
22 later than six months after the date of the enactment of
23 this Act, the Director of National Intelligence shall pre-
24 scribe and submit to the congressional intelligence com-
25 mittees the guidelines referred to in paragraph (2) of sec-

tion 116(b) of the National Security Act of 1947, as added
by subsection (a).

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

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

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

**SEC. 305. MODIFICATION OF AVAILABILITY OF FUNDS FOR
DIFFERENT INTELLIGENCE ACTIVITIES.**

Subparagraph (B) of section 504(a)(3) of the Na-
tional Security Act of 1947 (50 U.S.C. 414(a)(3)) is
amended to read as follows:

“(B) the use of such funds for such activity
supports an emergent need, improves program effec-
tiveness, or increases efficiency; and”.

**SEC. 306. RETENTION AND USE OF AMOUNTS PAID AS
DEBTS TO ELEMENTS OF THE INTELLIGENCE
COMMUNITY.**

(a) IN GENERAL.—Title XI of the National Security
Act of 1947 (50 U.S.C. 442 et seq.) is amended by adding
at the end the following new section:

1 “RETENTION AND USE OF AMOUNTS PAID AS DEBTS TO
2 ELEMENTS OF THE INTELLIGENCE COMMUNITY

3 “SEC. 1103. (a) AUTHORITY TO RETAIN AMOUNTS
4 PAID.—Notwithstanding section 3302 of title 31, United
5 States Code, or any other provision of law, the head of
6 an element of the intelligence community may retain
7 amounts paid or reimbursed to the United States, includ-
8 ing amounts paid by an employee of the Federal Govern-
9 ment from personal funds, for repayment of a debt owed
10 to the element of the intelligence community.

11 “(b) CREDITING OF AMOUNTS RETAINED.—(1)
12 Amounts retained under subsection (a) shall be credited
13 to the current appropriation or account from which such
14 funds were derived or whose expenditure formed the basis
15 for the underlying activity from which the debt concerned
16 arose.

17 “(2) Amounts credited to an appropriation or account
18 under paragraph (1) shall be merged with amounts in
19 such appropriation or account, and shall be available in
20 accordance with subsection (c).

21 “(c) AVAILABILITY OF AMOUNTS.—Amounts credited
22 to an appropriation or account under subsection (b) with
23 respect to a debt owed to an element of the intelligence
24 community shall be available to the head of such element,

1 for such time as is applicable to amounts in such appro-
 2 priation or account, for purposes as follows:

3 “(1) In the case of a debt arising from lost or
 4 damaged property of such element, the repair of
 5 such property or the replacement of such property
 6 with alternative property that will perform the same
 7 or similar functions as such property.

8 “(2) The funding of any other activities author-
 9 ized to be funded by such appropriation or account.

10 “(d) DEBT OWED TO AN ELEMENT OF THE INTEL-
 11 LIGENCE COMMUNITY DEFINED.—In this section, the
 12 term ‘debt owed to an element of the intelligence commu-
 13 nity’ means any of the following:

14 “(1) A debt owed to an element of the intel-
 15 ligence community by an employee or former em-
 16 ployee of such element for the negligent or willful
 17 loss of or damage to property of such element that
 18 was procured by such element using appropriated
 19 funds.

20 “(2) A debt owed to an element of the intel-
 21 ligence community by an employee or former em-
 22 ployee of such element as repayment for default on
 23 the terms and conditions associated with a scholar-
 24 ship, fellowship, or other educational assistance pro-
 25 vided to such individual by such element, whether in

1 exchange for future services or otherwise, using ap-
 2 propriated funds.

3 “(3) Any other debt or repayment owed to an
 4 element of the intelligence community by a private
 5 person or entity by reason of the negligent or willful
 6 action of such person or entity, as determined by a
 7 court of competent jurisdiction or in a lawful admin-
 8 istrative proceeding.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
 10 in the first section of that Act is amended by adding at
 11 the end the following new item:

“Sec. 1103. Retention and use of amounts paid as debts to elements of the in-
 telligence community.”.

12 **SEC. 307. PILOT PROGRAM ON DISCLOSURE OF RECORDS**
 13 **UNDER THE PRIVACY ACT RELATING TO CER-**
 14 **TAIN INTELLIGENCE ACTIVITIES.**

15 (a) IN GENERAL.—Subsection (b) of section 552a of
 16 title 5, United States Code, is amended—

17 (1) in paragraph (11), by striking “and” at the
 18 end;

19 (2) in paragraph (12), by striking the period
 20 and inserting “; or”; and

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

23 “(13) to an element of the intelligence commu-
 24 nity set forth in or designated under section 3(4) of

1 the National Security Act of 1947 (50 U.S.C.
2 401a(4))—

3 “(A) by another element of the intelligence
4 community, or by a department or agency of
5 the Federal Government containing an element
6 of the intelligence community, that maintains
7 the record, if the record is relevant to a lawful
8 and authorized foreign intelligence or counter-
9 intelligence activity conducted by the receiving
10 element of the intelligence community; or

11 “(B) by any other agency that maintains
12 the record, if—

13 “(i) it is the responsibility of that
14 agency to protect the United States or its
15 interests against the threat of international
16 terrorism or the proliferation of weapons of
17 mass destruction; and

18 “(ii)(I) the head of the element of the
19 intelligence community makes a written re-
20 quest to that agency specifying the record,
21 or the particular portion thereof, that is
22 relevant to a lawful and authorized activity
23 of the element of the intelligence commu-
24 nity to protect against international ter-

1 rorism or the proliferation of weapons of
2 mass destruction; or

3 “(II) the head of that agency deter-
4 mines that—

5 “(aa) the record, or particular
6 portion thereof, constitutes terrorism
7 information (as that term is defined
8 in section 1016(a)(4) of the National
9 Security Intelligence Reform Act of
10 2004 (title I of Public Law 108–458))
11 or information concerning the pro-
12 liferation of weapons of mass destruc-
13 tion; and

14 “(bb) the disclosure of the
15 record, or particular portion thereof,
16 will be to an element of the intel-
17 ligence community authorized to col-
18 lect and analyze foreign intelligence or
19 counterintelligence information related
20 to international terrorism or the pro-
21 liferation of weapons of mass destruc-
22 tion.”.

23 (b) EXEMPTION FROM CERTAIN PRIVACY ACT RE-
24 QUIREMENTS FOR RECORD ACCESS AND ACCOUNTING
25 FOR DISCLOSURES.—Elements of the intelligence commu-

1 nity set forth in or designated under section 3(4) of the
 2 National Security Act of 1947 (50 U.S.C. 401a(4)) receiv-
 3 ing a disclosure under subsection (b)(13) of section 552a
 4 of title 5, United States Code, shall not be required to
 5 comply with subsection (c)(3), (c)(4), or (d) of such sec-
 6 tion 552a with respect to such disclosure, or the records,
 7 or portions thereof, disclosed under subsection (b)(13) of
 8 such section 552a.

9 (c) CONSULTATION ON DETERMINATIONS OF INFOR-
 10 MATION TYPE.—Such section is further amended by add-
 11 ing at the end the following new subsection:

12 “(w) AUTHORITY TO CONSULT ON DETERMINATIONS
 13 OF INFORMATION TYPE.—When determining for purposes
 14 of subsection (b)(13)(B)(ii)(II) whether a record con-
 15 stitutes terrorism information (as that term is defined in
 16 section 1016(a)(4)) of the National Security Intelligence
 17 Reform Act of 2004 (title I of Public Law 108–458; 118
 18 Stat. 3665)) or information concerning the proliferation
 19 of weapons of mass destruction, the head of an agency
 20 may consult with the Director of National Intelligence or
 21 the Attorney General.”.

22 (d) CONSTRUCTION.—Nothing in the amendments
 23 made by this section shall be deemed to constitute author-
 24 ity for the collection or retention of foreign intelligence
 25 or counterintelligence information not otherwise author-

1 ized by the Constitution, laws, or Executive orders of the
2 United States.

3 (e) REPORTS.—

4 (1) ANNUAL REPORTS.—Not later than one
5 year after the date of the enactment of this Act, and
6 annually thereafter through 2008, the Director of
7 National Intelligence and the Attorney General, in
8 coordination with the Privacy and Civil Liberties
9 Oversight Board, shall jointly submit to the congres-
10 sional intelligence committees a report on the admin-
11 istration of the amendments made by this section.

12 (2) FINAL REPORT.—Not later than six months
13 before the date specified in subsection (f), the Direc-
14 tor of National Intelligence and the Attorney Gen-
15 eral, in coordination with the Privacy and Civil Lib-
16 erties Oversight Board, shall jointly submit to the
17 congressional intelligence committees a report on ad-
18 ministration of the amendments made by this sec-
19 tion. The report shall include the recommendations
20 of the Director and the Attorney General regarding
21 the continuation in effect of such amendments after
22 such date.

23 (3) REVIEW AND REPORT BY PRIVACY AND
24 CIVIL LIBERTIES OVERSIGHT BOARD.—Not later
25 than six months before the date specified in sub-

1 section (f), the Privacy and Civil Liberties Oversight
2 Board shall—

3 (A) review the administration of the
4 amendments made by this section; and

5 (B) in a manner consistent with section
6 1061(c)(1) of the National Security Intelligence
7 Reform Act of 2004 (title I of Public Law 108–
8 458; 118 Stat. 3684; 5 U.S.C. 601 note), sub-
9 mit to the congressional intelligence committees
10 a report providing such advice and counsel on
11 the administration of the amendments made by
12 this section as the Board considers appropriate.

13 (4) CONGRESSIONAL INTELLIGENCE COMMIT-
14 TEES DEFINED.—In this subsection, the term “con-
15 gressional intelligence committees” means—

16 (A) the Select Committee on Intelligence of
17 the Senate; and

18 (B) the Permanent Select Committee on
19 Intelligence of the House of Representatives.

20 (f) TERMINATION.—The amendments made by this
21 section shall cease to have effect on ~~December 31, 2009~~
22 *December 31, 2007*.

1 **SEC. 308. EXTENSION TO INTELLIGENCE COMMUNITY OF**
 2 **AUTHORITY TO DELETE INFORMATION**
 3 **ABOUT RECEIPT AND DISPOSITION OF FOR-**
 4 **EIGN GIFTS AND DECORATIONS.**

5 Paragraph (4) of section 7342(f) of title 5, United
 6 States Code, is amended to read as follows:

7 “(4)(A) In transmitting such listings for an element
 8 of the intelligence community, the head of such element
 9 may delete the information described in subparagraphs
 10 (A) and (C) of paragraphs (2) and (3) if the head of such
 11 element certifies in writing to the Secretary of State that
 12 the publication of such information could adversely affect
 13 United States intelligence sources or methods.

14 “(B) Any information not provided to the Secretary
 15 of State pursuant to the authority in subparagraph (A)
 16 shall be transmitted to the Director of National Intel-
 17 ligence.

18 “(C) In this paragraph, the term ‘element of the in-
 19 telligence community’ means an element of the intelligence
 20 community listed in or designated under section 3(4) of
 21 the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

22 **SEC. 309. AVAILABILITY OF FUNDS FOR TRAVEL AND**
 23 **TRANSPORTATION OF PERSONAL EFFECTS,**
 24 **HOUSEHOLD GOODS, AND AUTOMOBILES.**

25 (a) FUNDS OF OFFICE OF DIRECTOR OF NATIONAL
 26 INTELLIGENCE.—Funds appropriated to the Office of the

1 Director of National Intelligence and available for travel
2 and transportation expenses shall be available for such ex-
3 penses when any part of the travel or transportation con-
4 cerned begins in a fiscal year pursuant to travel orders
5 issued in such fiscal year, notwithstanding that such travel
6 or transportation is or may not be completed during such
7 fiscal year.

8 (b) FUNDS OF CENTRAL INTELLIGENCE AGENCY.—
9 Funds appropriated to the Central Intelligence Agency
10 and available for travel and transportation expenses shall
11 be available for such expenses when any part of the travel
12 or transportation concerned begins in a fiscal year pursu-
13 ant to travel orders issued in such fiscal year, notwith-
14 standing that such travel or transportation is or may not
15 be completed during such fiscal year.

16 (c) TRAVEL AND TRANSPORTATION EXPENSES DE-
17 FINED.—In this section, the term “travel and transpor-
18 tation expenses” means the following:

19 (1) Expenses in connection with travel of per-
20 sonnel, including travel of dependents.

21 (2) Expenses in connection with transportation
22 of personal effects, household goods, or automobiles
23 of personnel.

1 **TITLE IV—MATTERS RELATING**
 2 **TO ELEMENTS OF THE INTEL-**
 3 **LIGENCE COMMUNITY**

4 **Subtitle A—Office of the Director**
 5 **of National Intelligence**

6 **SEC. 401. ADDITIONAL AUTHORITIES OF THE DIRECTOR OF**
 7 **NATIONAL INTELLIGENCE ON INTELLIGENCE**
 8 **INFORMATION SHARING.**

9 Section 102A(g)(1) of the National Security Act of
 10 1947 (50 U.S.C. 403–1(g)(1)) is amended—

11 (1) in subparagraph (E), by striking “and” at
 12 the end;

13 (2) in subparagraph (F), by striking the period
 14 and inserting a semicolon; and

15 (3) by adding at the end the following the fol-
 16 lowing new subparagraphs:

17 “(G) in carrying out this subsection, have the
 18 authority—

19 “(i) to direct the development, deployment,
 20 and utilization of systems of common concern
 21 for elements of the intelligence community, or
 22 that support the activities of such elements, re-
 23 lated to the collection, processing, analysis, ex-
 24 ploitation, and dissemination of intelligence in-
 25 formation; and

“(ii) without regard to any provision of law relating to the transfer, reprogramming, obligation, or expenditure of funds, other than the provisions of this Act and the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458), to expend funds for purposes associated with the development, deployment, and utilization of such systems, which funds may be received and utilized by any department, agency, or other element of the United States Government for such purposes; and

“(H) for purposes of addressing critical gaps in intelligence information sharing or access capabilities, have the authority to transfer funds appropriated for a program within the National Intelligence Program to a program funded by appropriations not within the National Intelligence Program, consistent with paragraphs (3) through (7) of subsection (d).”.

**SEC. 402. MODIFICATION OF LIMITATION ON DELEGATION
BY THE DIRECTOR OF NATIONAL INTELLIGENCE OF THE PROTECTION OF INTELLIGENCE SOURCES AND METHODS.**

Section 102A(i)(3) of the National Security Act of 1947 (50 U.S.C. 403–1(i)(3)) is amended by inserting be-

1 fore the period the following: “, any Deputy Director of
 2 National Intelligence, or the Chief Information Officer of
 3 the Intelligence Community”.

4 **SEC. 403. AUTHORITY OF THE DIRECTOR OF NATIONAL IN-**
 5 **TELLIGENCE TO MANAGE ACCESS TO HUMAN**
 6 **INTELLIGENCE INFORMATION.**

7 Section 102A(b) of the National Security Act of 1947
 8 (50 U.S.C. 403–1(b)) is amended—

9 (1) by inserting “(1)” before “Unless”; and

10 (2) by adding at the end the following new
 11 paragraph:

12 “(2) The Director of National Intelligence shall—

13 “(A) have access to all information, including
 14 intelligence reports, operational data, and other as-
 15 sociated information, concerning the human intel-
 16 ligence operations of any element of the intelligence
 17 community authorized to undertake such collection;

18 “(B) consistent with the protection of intel-
 19 ligence sources and methods, ensure maximum ac-
 20 cess to the intelligence information contained in the
 21 information referred to in subparagraph (A)
 22 throughout the intelligence community; and

23 “(C) consistent with subparagraph (B), provide
 24 within the Office of the Director of National Intel-
 25 ligence a mechanism for intelligence community ana-

1 lysts and other officers with appropriate clearances
 2 and an official need-to-know to gain access to infor-
 3 mation referred to in subparagraph (A) or (B) when
 4 relevant to their official responsibilities.”.

5 **SEC. 404. ADDITIONAL ADMINISTRATIVE AUTHORITY OF**
 6 **THE DIRECTOR OF NATIONAL INTEL-**
 7 **LIGENCE.**

8 Section 102A of the National Security Act of 1947
 9 (50 U.S.C. 403–1) is amended by adding at the end the
 10 following new subsection:

11 “(s) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—
 12 (1) Notwithstanding section 1532 of title 31, United
 13 States Code, or any other provision of law prohibiting the
 14 interagency financing of activities described in clause (i)
 15 or (ii) of subparagraph (A), in the performance of the re-
 16 sponsibilities, authorities, and duties of the Director of
 17 National Intelligence or the Office of the Director of Na-
 18 tional Intelligence—

19 “(A) the Director may authorize the use of
 20 interagency financing for—

21 “(i) national intelligence centers estab-
 22 lished by the Director under section 119B; and

23 “(ii) boards, commissions, councils, com-
 24 mittees, and similar groups established by the
 25 Director; and

1 “(B) upon the authorization of the Director,
 2 any department, agency, or element of the United
 3 States Government, including any element of the in-
 4 telligence community, may fund or participate in the
 5 funding of such activities.

6 “(2) No provision of law enacted after the date of
 7 the enactment of this subsection shall be deemed to limit
 8 or supersede the authority in paragraph (1) unless such
 9 provision makes specific reference to the authority in that
 10 paragraph.”.

11 **SEC. 405. CLARIFICATION OF LIMITATION ON CO-LOCATION**
 12 **OF THE OFFICE OF THE DIRECTOR OF NA-**
 13 **TIONAL INTELLIGENCE.**

14 Section 103(e) of the National Security Act of 1947
 15 (50 U.S.C. 403–3(e)) is amended—

16 (1) by striking “WITH” and inserting “OF
 17 HEADQUARTERS WITH HEADQUARTERS OF”;

18 (2) by inserting “the headquarters of” before
 19 “the Office”; and

20 (3) by striking “any other element” and insert-
 21 ing “the headquarters of any other element”.

1 **SEC. 406. ADDITIONAL DUTIES OF THE DIRECTOR OF**
2 **SCIENCE AND TECHNOLOGY OF THE OFFICE**
3 **OF THE DIRECTOR OF NATIONAL INTEL-**
4 **LIGENCE.**

5 (a) COORDINATION AND PRIORITIZATION OF RE-
6 SEARCH CONDUCTED BY ELEMENTS OF INTELLIGENCE
7 COMMUNITY.—Subsection (d) of section 103E of the Na-
8 tional Security Act of 1947 (50 U.S.C. 403–3e) is amend-
9 ed—

10 (1) in paragraph (3)(A), by inserting “and
11 prioritize” after “coordinate”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(4) In carrying out paragraph (3)(A), the Com-
15 mittee shall identify basic, advanced, and applied research
16 programs to be carried out by elements of the intelligence
17 community.”.

18 (b) DEVELOPMENT OF TECHNOLOGY GOALS.—That
19 section is further amended—

20 (1) in subsection (c)—

21 (A) in paragraph (4), by striking “and” at
22 the end;

23 (B) by redesignating paragraph (5) as
24 paragraph (8); and

25 (C) by inserting after paragraph (4) the
26 following new paragraphs:

1 “(5) assist the Director in establishing goals for
2 the elements of the intelligence community to meet
3 the technology needs of the intelligence community;

4 “(6) under the direction of the Director, estab-
5 lish engineering standards and specifications appli-
6 cable to each acquisition of a major system (as that
7 term is defined in section 506A(e)(3)) by the intel-
8 ligence community;

9 “(7) ensure that each acquisition program of
10 the intelligence community for a major system (as so
11 defined) complies with the standards and specifica-
12 tions established under paragraph (6); and”;

13 (2) by adding at the end the following new sub-
14 section:

15 “(e) GOALS FOR TECHNOLOGY NEEDS OF INTEL-
16 LIGENCE COMMUNITY.—In carrying out subsection (c)(5),
17 the Director of Science and Technology shall—

18 “(1) perform systematic identification and as-
19 sessment of the most significant intelligence chal-
20 lenges that require technical solutions;

21 “(2) examine options to enhance the responsive-
22 ness of research and design programs to meet the
23 requirements of the intelligence community for time-
24 ly support; and

1 “(3) assist the Director of National Intelligence
2 in establishing research and development priorities
3 and projects for the intelligence community that—

4 “(A) are consistent with current or future
5 national intelligence requirements;

6 “(B) address deficiencies or gaps in the
7 collection, processing, analysis, or dissemination
8 of national intelligence;

9 “(C) take into account funding constraints
10 in program development and acquisition; and

11 “(D) address system requirements from
12 collection to final dissemination (also known as
13 ‘end-to-end architecture’).”.

14 (c) REPORT.—(1) Not later than June 30, 2006, the
15 Director of National Intelligence shall submit to Congress
16 a report containing a strategy for the development and
17 use of technology in the intelligence community through
18 2021.

19 (2) The report shall include—

20 (A) an assessment of the highest priority intel-
21 ligence gaps across the intelligence community that
22 may be resolved by the use of technology;

23 (B) goals for advanced research and develop-
24 ment and a strategy to achieve such goals;

1 (C) an explanation of how each advanced re-
 2 search and development project funded under the
 3 National Intelligence Program addresses an identi-
 4 fied intelligence gap;

5 (D) a list of all current and projected research
 6 and development projects by research type (basic,
 7 advanced, or applied) with estimated funding levels,
 8 estimated initiation dates, and estimated completion
 9 dates; and

10 (E) a plan to incorporate technology from re-
 11 search and development projects into National Intel-
 12 ligence Program acquisition programs.

13 (3) The report may be submitted in classified form.

14 **SEC. 407. APPOINTMENT AND TITLE OF CHIEF INFORMA-**
 15 **TION OFFICER OF THE INTELLIGENCE COM-**
 16 **MUNITY.**

17 (a) APPOINTMENT.—Subsection (a) of section 103G
 18 of the National Security Act of 1947 (50 U.S.C. 403–3g)
 19 is amended by striking “the President, by and with the
 20 advice and consent of the Senate” and inserting “the Di-
 21 rector of National Intelligence”.

22 (b) TITLE.—Such section is further amended—

23 (1) in subsection (a), by inserting “of the Intel-
 24 ligence Community” after “Chief Information Offi-
 25 cer”;

(a) ESTABLISHMENT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 103G the following new section:

21 “(b) PURPOSE.—The purpose of the Office of the In-
22 spector General of the Intelligence Community is to—

23 “(1) create an objective and effective office, ap-
24 propriately accountable to Congress, to initiate and
25 conduct independently investigations, inspections,
26 and audits relating to—

1 “(A) the programs and operations of the
2 intelligence community;

3 “(B) the elements of the intelligence com-
4 munity within the National Intelligence Pro-
5 gram; and

6 “(C) the relationships between the ele-
7 ments of the intelligence community within the
8 National Intelligence Program and the other
9 elements of the intelligence community;

10 “(2) recommend policies designed—

11 “(A) to promote economy, efficiency, and
12 effectiveness in the administration and imple-
13 mentation of such programs and operations,
14 and in such relationships; and

15 “(B) to prevent and detect fraud and
16 abuse in such programs, operations, and rela-
17 tionships;

18 “(3) provide a means for keeping the Director
19 of National Intelligence fully and currently informed
20 about—

21 “(A) problems and deficiencies relating to
22 the administration and implementation of such
23 programs and operations, and to such relation-
24 ships; and

1 “(B) the necessity for, and the progress of,
2 corrective actions; and

3 “(4) in the manner prescribed by this section,
4 ensure that the congressional intelligence committees
5 are kept similarly informed of—

6 “(A) significant problems and deficiencies
7 relating to the administration and implementa-
8 tion of such programs and operations, and to
9 such relationships; and

10 “(B) the necessity for, and the progress of,
11 corrective actions.

12 “(c) INSPECTOR GENERAL OF INTELLIGENCE COM-
13 MUNITY.—(1) There is an Inspector General of the Intel-
14 ligence Community, who shall be the head of the Office
15 of the Inspector General of the Intelligence Community,
16 who shall be appointed by the President, by and with the
17 advice and consent of the Senate.

18 “(2) The nomination of an individual for appointment
19 as Inspector General shall be made—

20 “(A) without regard to political affiliation;

21 “(B) solely on the basis of integrity, compliance
22 with the security standards of the intelligence com-
23 munity, and prior experience in the field of intel-
24 ligence or national security; and

1 “(C) on the basis of demonstrated ability in ac-
2 counting, financial analysis, law, management anal-
3 ysis, public administration, or auditing.

4 “(3) The Inspector General shall report directly to
5 and be under the general supervision of the Director of
6 National Intelligence.

7 “(4) The Inspector General may be removed from of-
8 fice only by the President. The President shall imme-
9 diately communicate in writing to the congressional intel-
10 ligence committees the reasons for the removal of any indi-
11 vidual from the position of Inspector General.

12 “(d) DUTIES AND RESPONSIBILITIES.—~~It~~ *Subject to*
13 *subsections (g) and (h), it* shall be the duty and responsi-
14 bility of the Inspector General of the Intelligence Commu-
15 nity—

16 “(1) to provide policy direction for, and to plan,
17 conduct, supervise, and coordinate independently,
18 the investigations, inspections, and audits relating to
19 the programs and operations of the intelligence com-
20 munity, the elements of the intelligence community
21 within the National Intelligence Program, and the
22 relationships between the elements of the intelligence
23 community within the National Intelligence Program
24 and the other elements of the intelligence community

1 to ensure they are conducted efficiently and in ac-
2 cordance with applicable law and regulations;

3 “(2) to keep the Director of National Intel-
4 ligence fully and currently informed concerning vio-
5 lations of law and regulations, violations of civil lib-
6 erties and privacy, and fraud and other serious prob-
7 lems, abuses, and deficiencies that may occur in
8 such programs and operations, and in such relation-
9 ships, and to report the progress made in imple-
10 menting corrective action;

11 “(3) to take due regard for the protection of in-
12 telligence sources and methods in the preparation of
13 all reports issued by the Inspector General, and, to
14 the extent consistent with the purpose and objective
15 of such reports, take such measures as may be ap-
16 propriate to minimize the disclosure of intelligence
17 sources and methods described in such reports; and

18 “(4) in the execution of the duties and respon-
19 sibilities under this section, to comply with generally
20 accepted government auditing standards.

21 “(e) LIMITATIONS ON ACTIVITIES.—(1) The Director
22 of National Intelligence may prohibit the Inspector Gen-
23 eral of the Intelligence Community from initiating, car-
24 rying out, or completing any investigation, inspection, or
25 audit if the Director determines that such prohibition is

1 necessary to protect vital national security interests of the
2 United States.

3 “(2) If the Director exercises the authority under
4 paragraph (1), the Director shall submit an appropriately
5 classified statement of the reasons for the exercise of such
6 authority within 7 days to the congressional intelligence
7 committees.

8 “(3) The Director shall advise the Inspector General
9 at the time a report under paragraph (2) is submitted,
10 and, to the extent consistent with the protection of intel-
11 ligence sources and methods, provide the Inspector Gen-
12 eral with a copy of such report.

13 “(4) The Inspector General may submit to the con-
14 gressional intelligence committees any comments on a re-
15 port of which the Inspector General has notice under para-
16 graph (3) that the Inspector General considers appro-
17 priate.

18 “(f) AUTHORITIES.—(1) The Inspector General of
19 the Intelligence Community shall have direct and prompt
20 access to the Director of National Intelligence when nec-
21 essary for any purpose pertaining to the performance of
22 the duties of the Inspector General.

23 “(2)(A) The Inspector General shall have access to
24 any employee, or any employee of a contractor, of any ele-
25 ment of the intelligence community whose testimony is

1 needed for the performance of the duties of the Inspector
2 General.

3 “(B) The Inspector General shall have direct access
4 to all records, reports, audits, reviews, documents, papers,
5 recommendations, or other material which relate to the
6 programs and operations with respect to which the Inspec-
7 tor General has responsibilities under this section.

8 “(C) The level of classification or compartmentation
9 of information shall not, in and of itself, provide a suffi-
10 cient rationale for denying the Inspector General access
11 to any materials under subparagraph (B).

12 “(D) Failure on the part of any employee, or any em-
13 ployee of a contractor, of any element of the intelligence
14 community to cooperate with the Inspector General shall
15 be grounds for appropriate administrative actions by the
16 Director or, on the recommendation of the Director, other
17 appropriate officials of the intelligence community, includ-
18 ing loss of employment or the termination of an existing
19 contractual relationship.

20 “(3) The Inspector General is authorized to receive
21 and investigate complaints or information from any person
22 concerning the existence of an activity constituting a viola-
23 tion of laws, rules, or regulations, or mismanagement,
24 gross waste of funds, abuse of authority, or a substantial
25 and specific danger to the public health and safety. Once

1 such complaint or information has been received from an
2 employee of the Federal Government—

3 “(A) the Inspector General shall not disclose
4 the identity of the employee without the consent of
5 the employee, unless the Inspector General deter-
6 mines that such disclosure is unavoidable during the
7 course of the investigation or the disclosure is made
8 to an official of the Department of Justice respon-
9 sible for determining whether a prosecution should
10 be undertaken; and

11 “(B) no action constituting a reprisal, or threat
12 of reprisal, for making such complaint may be taken
13 by any employee in a position to take such actions,
14 unless the complaint was made or the information
15 was disclosed with the knowledge that it was false
16 or with willful disregard for its truth or falsity.

17 “(4) The Inspector General shall have authority to
18 administer to or take from any person an oath, affirma-
19 tion, or affidavit, whenever necessary in the performance
20 of the duties of the Inspector General, which oath, affir-
21 mation, or affidavit when administered or taken by or be-
22 fore an employee of the Office of the Inspector General
23 of the Intelligence Community designated by the Inspector
24 General shall have the same force and effect as if adminis-
25 tered or taken by or before an officer having a seal.

1 “(5)(A) Except as provided in subparagraph (B), the
2 Inspector General is authorized to require by subpoena the
3 production of all information, documents, reports, an-
4 swers, records, accounts, papers, and other data and docu-
5 mentary evidence necessary in the performance of the du-
6 ties and responsibilities of the Inspector General.

7 “(B) In the case of departments, agencies, and other
8 elements of the United States Government, the Inspector
9 General shall obtain information, documents, reports, an-
10 swers, records, accounts, papers, and other data and evi-
11 dence for the purpose specified in subparagraph (A) using
12 procedures other than by subpoenas.

13 “(C) The Inspector General may not issue a subpoena
14 for or on behalf of any other element of the intelligence
15 community, including the Office of the Director of Na-
16 tional Intelligence.

17 “(D) In the case of contumacy or refusal to obey a
18 subpoena issued under this paragraph, the subpoena shall
19 be enforceable by order of any appropriate district court
20 of the United States.

21 “(g) COORDINATION AMONG INSPECTORS GENERAL
22 OF INTELLIGENCE COMMUNITY.—(1) In the event of a
23 matter within the jurisdiction of the Inspector General of
24 the Intelligence Community that may be subject to an in-
25 vestigation, inspection, or audit by both the Inspector

1 General of the Intelligence Community and an Inspector
2 General, whether statutory or administrative, with over-
3 sight responsibility for an element or elements of the intel-
4 ligence community, the Inspector General of the Intel-
5 ligence Community and such other Inspector or Inspectors
6 General shall expeditiously resolve which Inspector Gen-
7 eral shall conduct such investigation, inspection, or audit.
8 ~~The Inspector General of the Intelligence Community shall~~
9 ~~make the final decision on the resolution of such jurisdic-~~
10 ~~tion.~~

11 “(2) The Inspector General conducting an investiga-
12 tion, inspection, or audit covered by paragraph (1) shall
13 submit the results of such investigation, inspection, or
14 audit to any other Inspector General, including the Inspec-
15 tor General of the Intelligence Community, with jurisdic-
16 tion to conduct such investigation, inspection, or audit
17 who did not conduct such investigation, inspection, or
18 audit.

19 “(3)(A) If an investigation, inspection, or audit cov-
20 ered by paragraph (1) is conducted by an Inspector Gen-
21 eral other than the Inspector General of the Intelligence
22 Community, the Inspector General of the Intelligence
23 Community may, upon completion of such investigation,
24 inspection, or audit by such other Inspector General, con-
25 duct under this section a separate investigation, inspec-

1 tion, or audit of the matter concerned if the Inspector
2 General of the Intelligence Community determines that
3 such initial investigation, inspection, or audit was deficient
4 in some manner or that further investigation, inspection,
5 or audit is required.

6 “(B) *This paragraph shall not apply to the Inspector*
7 *General of the Department of Defense or to any other In-*
8 *spector General within the Department of Defense.*

9 “(h) STAFF AND OTHER SUPPORT.—(1) The Inspec-
10 tor General of the Intelligence Community shall be pro-
11 vided with appropriate and adequate office space at cen-
12 tral and field office locations, together with such equip-
13 ment, office supplies, maintenance services, and commu-
14 nications facilities and services as may be necessary for
15 the operation of such offices.

16 “(2)(A) Subject to applicable law and the policies of
17 the Director of National Intelligence, the Inspector Gen-
18 eral shall select, appoint, and employ such officers and em-
19 ployees as may be necessary to carry out the functions
20 of the Inspector General. The Inspector General shall en-
21 sure that any officer or employee so selected, appointed,
22 or employed has security clearances appropriate for the
23 assigned duties of such officer or employee.

24 “(B) In making selections under subparagraph (A),
25 the Inspector General shall ensure that such officers and

1 employees have the requisite training and experience to
2 enable the Inspector General to carry out the duties of
3 the Inspector General effectively.

4 “(C) In meeting the requirements of this paragraph,
5 the Inspector General shall create within the Office of the
6 Inspector General of the Intelligence Community a career
7 cadre of sufficient size to provide appropriate continuity
8 and objectivity needed for the effective performance of the
9 duties of the Inspector General.

10 “(3)(A) Subject to the concurrence of the Director,
11 the Inspector General may request such information or as-
12 sistance as may be necessary for carrying out the duties
13 and responsibilities of the Inspector General from any de-
14 partment, agency, or other element of the United States
15 Government.

16 “(B) Upon request of the Inspector General for infor-
17 mation or assistance under subparagraph (A), the head
18 of the department, agency, or element concerned shall, in-
19 sofar as is practicable and not in contravention of any ex-
20 isting statutory restriction or regulation of the depart-
21 ment, agency, or element, furnish to the Inspector Gen-
22 eral, or to an authorized designee, such information or as-
23 sistance.

24 ~~“(C) Each Inspector General of an element of the in-~~
25 ~~telligence community shall comply fully with a request for~~

1 information or assistance from the Inspector General of
 2 the Intelligence Community.

3 “(D) (C) The Inspector General of the Intelligence
 4 Community may, upon reasonable notice to the head of
 5 any element of the intelligence community, conduct, as au-
 6 thorized by this section, an investigation, inspection, or
 7 audit of such element and may enter into any place occu-
 8 pied by such element for purposes of the performance of
 9 the duties of the Inspector General.

10 “(i) REPORTS.—(1)(A) The Inspector General of the
 11 Intelligence Community shall, not later than January 31
 12 and July 31 of each year, prepare and submit to the Di-
 13 rector of National Intelligence a classified, and, as appro-
 14 priate, unclassified semiannual report summarizing the ac-
 15 tivities of the Office of the Inspector General of the Intel-
 16 ligence Community during the immediately preceding 6-
 17 month periods ending December 31 (of the preceding
 18 year) and June 30, respectively.

19 “(B) Each report under this paragraph shall include,
 20 at a minimum, the following:

21 “(i) A list of the title or subject of each inves-
 22 tigation, inspection, or audit conducted during the
 23 period covered by such report, including a summary
 24 of the progress of each particular investigation, in-

1 specation, or audit since the preceding report of the
2 Inspector General under this paragraph.

3 “(ii) A description of significant problems,
4 abuses, and deficiencies relating to the administra-
5 tion and implementation of programs and operations
6 of the intelligence community, and in the relation-
7 ships between elements of the intelligence commu-
8 nity, identified by the Inspector General during the
9 period covered by such report.

10 “(iii) A description of the recommendations for
11 corrective or disciplinary action made by the Inspec-
12 tor General during the period covered by such report
13 with respect to significant problems, abuses, or defi-
14 ciencies identified in clause (ii).

15 “(iv) A statement whether or not corrective or
16 disciplinary action has been completed on each sig-
17 nificant recommendation described in previous semi-
18 annual reports, and, in a case where corrective ac-
19 tion has been completed, a description of such cor-
20 rective action.

21 “(v) A certification whether or not the Inspec-
22 tor General has had full and direct access to all in-
23 formation relevant to the performance of the func-
24 tions of the Inspector General.

1 “(vi) A description of the exercise of the sub-
2 poena authority under subsection (f)(5) by the In-
3 specter General during the period covered by such
4 report.

5 “(vii) Such recommendations as the Inspector
6 General considers appropriate for legislation to pro-
7 mote economy, efficiency, and effectiveness in the
8 administration and implementation of programs and
9 operations undertaken by the intelligence commu-
10 nity, and in the relationships between elements of
11 the intelligence community, and to detect and elimi-
12 nate fraud and abuse in such programs and oper-
13 ations and in such relationships.

14 “(C) Not later than the 30 days after the date of
15 receipt of a report under subparagraph (A), the Director
16 shall transmit the report to the congressional intelligence
17 committees together with any comments the Director con-
18 siders appropriate.

19 “(2)(A) The Inspector General shall report imme-
20 diately to the Director whenever the Inspector General be-
21 comes aware of particularly serious or flagrant problems,
22 abuses, or deficiencies relating to the administration and
23 implementation of programs or operations of the intel-
24 ligence community or in the relationships between ele-
25 ments of the intelligence community.

1 “(B) The Director shall transmit to the congressional
2 intelligence committees each report under subparagraph
3 (A) within seven calendar days of receipt of such report,
4 together with such comments as the Director considers ap-
5 propriate.

6 “(3) In the event that—

7 “(A) the Inspector General is unable to resolve
8 any differences with the Director affecting the exe-
9 cution of the duties or responsibilities of the Inspec-
10 tor General;

11 “(B) an investigation, inspection, or audit car-
12 ried out by the Inspector General focuses on any
13 current or former intelligence community official
14 who—

15 “(i) holds or held a position in an element
16 of the intelligence community that is subject to
17 appointment by the President, whether or not
18 by and with the advice and consent of the Sen-
19 ate, including such a position held on an acting
20 basis;

21 “(ii) holds or held a position in an element
22 of the intelligence community, including a posi-
23 tion held on an acting basis, that is appointed
24 by the Director of National Intelligence; or

1 “(iii) holds or held a position as head of an
2 element of the intelligence community or a posi-
3 tion covered by subsection (b) or (c) of section
4 106;

5 “(C) a matter requires a report by the Inspec-
6 tor General to the Department of Justice on possible
7 criminal conduct by a current or former official de-
8 scribed in subparagraph (B);

9 “(D) the Inspector General receives notice from
10 the Department of Justice declining or approving
11 prosecution of possible criminal conduct of any cur-
12 rent or former official described in subparagraph
13 (B); or

14 “(E) the Inspector General, after exhausting all
15 possible alternatives, is unable to obtain significant
16 documentary information in the course of an inves-
17 tigation, inspection, or audit,

18 the Inspector General shall immediately notify and submit
19 a report on such matter to the congressional intelligence
20 committees.

21 “(4) Pursuant to title V, the Director shall submit
22 to the congressional intelligence committees any report or
23 findings and recommendations of an investigation, inspec-
24 tion, or audit conducted by the office which has been re-

1 requested by the Chairman or Vice Chairman or Ranking
2 Minority Member of either committee.

3 “(5)(A) An employee of an element of the intelligence
4 community, an employee assigned or detailed to an ele-
5 ment of the intelligence community, or an employee of a
6 contractor to the intelligence community who intends to
7 report to Congress a complaint or information with respect
8 to an urgent concern may report such complaint or infor-
9 mation to the Inspector General.

10 “(B) Not later than the end of the 14-calendar day
11 period beginning on the date of receipt from an employee
12 of a complaint or information under subparagraph (A),
13 the Inspector General shall determine whether the com-
14 plaint or information appears credible. Upon making such
15 a determination, the Inspector General shall transmit to
16 the Director a notice of that determination, together with
17 the complaint or information.

18 “(C) Upon receipt of a transmittal from the Inspector
19 General under subparagraph (B), the Director shall, with-
20 in seven calendar days of such receipt, forward such trans-
21 mittal to the congressional intelligence committees, to-
22 gether with any comments the Director considers appro-
23 priate.

24 “(D)(i) If the Inspector General does not find cred-
25 ible under subparagraph (B) a complaint or information

1 submitted under subparagraph (A), or does not transmit
2 the complaint or information to the Director in accurate
3 form under subparagraph (B), the employee (subject to
4 clause (ii)) may submit the complaint or information to
5 Congress by contacting either or both of the congressional
6 intelligence committees directly.

7 “(ii) An employee may contact the intelligence com-
8 mittees directly as described in clause (i) only if the em-
9 ployee—

10 “(I) before making such a contact, furnishes to
11 the Director, through the Inspector General, a state-
12 ment of the employee’s complaint or information and
13 notice of the employee’s intent to contact the con-
14 gressional intelligence committees directly; and

15 “(II) obtains and follows from the Director,
16 through the Inspector General, direction on how to
17 contact the intelligence committees in accordance
18 with appropriate security practices.

19 “(iii) A member or employee of one of the congres-
20 sional intelligence committees who receives a complaint or
21 information under clause (i) does so in that member or
22 employee’s official capacity as a member or employee of
23 such committee.

24 “(E) The Inspector General shall notify an employee
25 who reports a complaint or information to the Inspector

1 General under this paragraph of each action taken under
2 this paragraph with respect to the complaint or informa-
3 tion. Such notice shall be provided not later than 3 days
4 after any such action is taken.

5 “(F) An action taken by the Director or the Inspector
6 General under this paragraph shall not be subject to judi-
7 cial review.

8 “(G) In this paragraph, the term ‘urgent concern’
9 means any of the following:

10 “(i) A serious or flagrant problem, abuse, viola-
11 tion of law or Executive order, or deficiency relating
12 to the funding, administration, or operations of an
13 intelligence activity involving classified information,
14 but does not include differences of opinions con-
15 cerning public policy matters.

16 “(ii) A false statement to Congress, or a willful
17 withholding from Congress, on an issue of material
18 fact relating to the funding, administration, or oper-
19 ation of an intelligence activity.

20 “(iii) An action, including a personnel action
21 described in section 2302(a)(2)(A) of title 5, United
22 States Code, constituting reprisal or threat of re-
23 prisal prohibited under subsection (f)(3)(B) of this
24 section in response to an employee’s reporting an ur-
25 gent concern in accordance with this paragraph.

1 “(H) In support of this paragraph, Congress makes
2 the findings set forth in paragraphs (1) through (6) of
3 section 701(b) of the Intelligence Community Whistle-
4 blower Protection Act of 1998 (title VII of Public Law
5 105–272; 5 U.S.C. App. 8H note).

6 “(6) In accordance with section 535 of title 28,
7 United States Code, the Inspector General shall report to
8 the Attorney General any information, allegation, or com-
9 plaint received by the Inspector General relating to viola-
10 tions of Federal criminal law that involves a program or
11 operation of an element of the intelligence community, or
12 in the relationships between the elements of the intel-
13 ligence community, consistent with such guidelines as may
14 be issued by the Attorney General pursuant to subsection
15 (b)(2) of such section. A copy of each such report shall
16 be furnished to the Director.

17 “(j) SEPARATE BUDGET ACCOUNT.—The Director of
18 National Intelligence shall, in accordance with procedures
19 to be issued by the Director in consultation with the con-
20 gressional intelligence committees, include in the National
21 Intelligence Program budget a separate account for the
22 Office of Inspector General of the Intelligence Community.

23 “(k) CONSTRUCTION OF DUTIES REGARDING ELE-
24 MENTS OF INTELLIGENCE COMMUNITY.—Except as re-
25 solved pursuant to subsection (g), the performance by the

1 Inspector General of the Intelligence Community of any
 2 duty, responsibility, or function regarding an element of
 3 the intelligence community shall not be construed to mod-
 4 ify or effect the duties and responsibilities of any other
 5 Inspector General, whether statutory or administrative,
 6 having duties and responsibilities relating to such ele-
 7 ment.”.

8 (2) The table of contents in the first section of the
 9 National Security Act of 1947 is amended by inserting
 10 after the item relating to section 103G the following new
 11 item:

“Sec. 103H. Inspector General of the Intelligence Community.”.

12 (b) REPEAL OF SUPERSEDED AUTHORITY TO ES-
 13 TABLISH POSITION.—Section 8K of the Inspector General
 14 Act of 1978 (5 U.S.C. App.) is repealed.

15 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section
 16 5314 of title 5, United States Code, is amended by adding
 17 at the end the following new item:

18 “Inspector General of the Intelligence Commu-
 19 nity.”.

20 (d) PLACEMENT WITHIN OFFICE OF DIRECTOR OF
 21 NATIONAL INTELLIGENCE.—Section 103(c) of the Na-
 22 tional Security Act of 1947 (50 U.S.C. 403–3(c)) is
 23 amended—

24 (1) by redesignating paragraph (9) as para-
 25 graph (11); and

1 (2) by inserting after paragraph (8) the fol-
 2 lowing new paragraphs:

3 “(9) The Chief Information Officer of the Intel-
 4 ligence Community.

5 “(10) The Office of the Inspector General of
 6 the Intelligence Community.”.

7 **SEC. 409. LEADERSHIP AND LOCATION OF NATIONAL**
 8 **COUNTER PROLIFERATION CENTER.**

9 (a) IN GENERAL.—Section 119A(a) of the National
 10 Security Act of 1947 (50 U.S.C. 404o–1(a)) is amended—

11 (1) by striking “Not later than 18 months after
 12 the date of the enactment of this Act, the” and in-
 13 serting “(1) The”; and

14 (2) by adding at the end the following new
 15 paragraphs:

16 “(2) The head of the National Counter Proliferation
 17 Center shall be the Director of the National Counter Pro-
 18 liferation Center, who shall be appointed by the Director
 19 of National Intelligence.

20 “(3) The National Counter Proliferation Center shall
 21 be located within the Office of the Director of National
 22 Intelligence.”.

23 (b) CONFORMING AMENDMENT.—Section 103(c) of
 24 that Act (50 U.S.C. 403–3(c)), as amended by section
 25 408(d) of this Act, is further amended—

1 (1) by redesignating paragraph (11) as para-
2 graph (12); and

3 (2) by inserting after paragraph (10) the fol-
4 lowing new paragraph (11):

5 “(11) The Director of the National Counter
6 Proliferation Center.”.

7 **SEC. 410. OPERATIONAL FILES IN THE OFFICE OF THE DI-**
8 **RECTOR OF NATIONAL INTELLIGENCE.**

9 (a) IN GENERAL.—Title VII of the National Security
10 Act of 1947 (50 U.S.C. 431 et seq.) is amended by insert-
11 ing before section 701 the following new section:

12 “OPERATIONAL FILES IN THE OFFICE OF THE DIRECTOR
13 OF NATIONAL INTELLIGENCE

14 “SEC. 700. (a) EXEMPTION OF CERTAIN FILES
15 FROM SEARCH, REVIEW, PUBLICATION, OR DISCLO-
16 SURE.—(1) Information and records described in para-
17 graph (2) shall be exempt from the provisions of section
18 552 of title 5, United States Code, that require search,
19 review, publication, or disclosure in connection therewith
20 when—

21 “(A) such information or records are not dis-
22 seminated outside the Office of the Director of Na-
23 tional Intelligence; or

24 “(B) such information or records are incor-
25 porated into new information or records created by
26 personnel of the Office in a manner that identifies

1 such new information or records as incorporating
2 such information or records and such new informa-
3 tion or records are not disseminated outside the Of-
4 fice.

5 “(2) Information and records described in this para-
6 graph are the following:

7 “(A) Information disseminated or otherwise
8 provided to an element of the Office of the Director
9 of National Intelligence from the operational files of
10 an element of the intelligence community that have
11 been exempted from search, review, publication, or
12 disclosure in accordance with this title or any other
13 provision of law.

14 “(B) Any information or records created by the
15 Office that incorporate information described in sub-
16 paragraph (A).

17 “(3) An operational file of an element of the intel-
18 ligence community from which information described in
19 paragraph (2)(A) is disseminated or provided to the Office
20 of the Director of National Intelligence as described in
21 that paragraph shall remain exempt from search, review,
22 publication, or disclosure under section 552 of title 5,
23 United States Code, to the extent the operational files
24 from which such information was derived remain exempt

1 from search, review, publication, or disclosure under sec-
2 tion 552 of such title.

3 “(b) SEARCH AND REVIEW OF CERTAIN FILES.—In-
4 formation disseminated or otherwise provided to the Office
5 of the Director of National Intelligence by another element
6 of the intelligence community that is not exempt from
7 search, review, publication, or disclosure under subsection
8 (a), and that is authorized to be disseminated outside the
9 Office, shall be subject to search and review under section
10 552 of title 5, United States Code, but may remain exempt
11 from publication and disclosure under such section by the
12 element disseminating or providing such information to
13 the Office to the extent authorized by such section.

14 “(c) SEARCH AND REVIEW FOR CERTAIN PUR-
15 POSES.—Notwithstanding subsection (a), exempted oper-
16 ational files shall continue to be subject to search and re-
17 view for information concerning any of the following:

18 “(1) United States citizens or aliens lawfully
19 admitted for permanent residence who have re-
20 quested information on themselves pursuant to the
21 provisions of section 552 or 552a of title 5, United
22 States Code.

23 “(2) Any special activity the existence of which
24 is not exempt from disclosure under the provisions
25 of section 552 of title 5, United States Code.

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

5 “(A) The Select Committee on Intelligence
 6 of the Senate.

7 “(B) The Permanent Select Committee on
 8 Intelligence of the House of Representatives.

9 “(C) The Intelligence Oversight Board.

10 “(D) The Department of Justice.

11 “(E) The Office of the Director of Na-
 12 tional Intelligence.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
 14 in the first section of that Act is amended by inserting
 15 before the item relating to section 701 the following new
 16 item:

“Sec. 700. Operational files in the Office of the Director of National Intel-
 ligence.”.

17 **SEC. 411. ELIGIBILITY FOR INCENTIVE AWARDS OF PER-**
 18 **SONNEL ASSIGNED TO THE OFFICE OF THE**
 19 **DIRECTOR OF NATIONAL INTELLIGENCE.**

20 (a) IN GENERAL.—Subsection (a) of section 402 of
 21 the Intelligence Authorization Act for Fiscal Year 1984
 22 (50 U.S.C. 403e-1) is amended to read as follows:

23 “(a) AUTHORITY FOR PAYMENT OF AWARDS.—(1)
 24 The Director of National Intelligence may exercise the au-

1 thority granted in section 4503 of title 5, United States
 2 Code, with respect to Federal employees and members of
 3 the Armed Forces detailed or assigned to the Office of
 4 the Director of National Intelligence in the same manner
 5 as such authority may be exercised with respect to per-
 6 sonnel of the Office.

7 “(2) The Director of the Central Intelligence Agency
 8 may exercise the authority granted in section 4503 of title
 9 5, United States Code, with respect to Federal employees
 10 and members of the Armed Forces detailed or assigned
 11 to the Central Intelligence Agency in the same manner as
 12 such authority may be exercised with respect to personnel
 13 of the Agency.”.

14 (b) REPEAL OF OBSOLETE AUTHORITY.—That sec-
 15 tion is further amended—

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

17 (2) by redesignating subsection (d) as sub-
 18 section (c).

19 (c) CONFORMING AMENDMENTS.—That section is
 20 further amended—

21 (1) in subsection (b), by striking “to the Cen-
 22 tral Intelligence Agency or to the Intelligence Com-
 23 munity Staff” and inserting “to the Office of the Di-
 24 rector of National Intelligence or to the Central In-
 25 telligence Agency”; and

1 (2) in subsection (c), as redesignated by sub-
 2 section (b)(2) of this section, by striking “Director
 3 of Central Intelligence” and inserting “Director of
 4 National Intelligence or Director of the Central In-
 5 telligence Agency”.

6 (d) TECHNICAL AND STYLISTIC AMENDMENTS.—

7 That section is further amended—

8 (1) in subsection (b)—

9 (A) by inserting “PERSONNEL ELIGIBLE
 10 FOR AWARDS.—” after “(b)”;

11 (B) by striking “subsection (a) of this sec-
 12 tion” and inserting “subsection (a)”;

13 (C) by striking “a date five years before
 14 the date of enactment of this section” and in-
 15 serting “December 9, 1978”; and

16 (2) in subsection (c), as so redesignated, by in-
 17 serting “PAYMENT AND ACCEPTANCE OF
 18 AWARDS.—” after “(c)”.

19 **SEC. 412. REPEAL OF CERTAIN AUTHORITIES RELATING TO**
 20 **THE OFFICE OF THE NATIONAL COUNTER-**
 21 **INTELLIGENCE EXECUTIVE.**

22 (a) REPEAL OF CERTAIN AUTHORITIES.—Section
 23 904 of the Counterintelligence Enhancement Act of 2002
 24 (title IX of Public Law 107–306; 50 U.S.C. 402c) is
 25 amended—

1 (1) by striking subsections (d), (g), (h), (i), and
 2 (j); and

3 (2) by redesignating subsections (e), (f), (k),
 4 (l), and (m) as subsections (d), (e), (f), (g), and (h),
 5 respectively.

6 (b) CONFORMING AMENDMENTS.—That section is
 7 further amended—

8 (1) in subsection (d), as redesignated by sub-
 9 section (a)(2) of this section, by striking “subsection
 10 (f)” each place it appears in paragraphs (1) and (2)
 11 and inserting “subsection (e)”; and

12 (2) in subsection (f)(2), as so redesignated, by
 13 striking “subsection (e)(2)” and inserting “sub-
 14 section (d)(2)”.

15 **SEC. 413. INAPPLICABILITY OF FEDERAL ADVISORY COM-**
 16 **MITTEE ACT TO ADVISORY COMMITTEES OF**
 17 **THE OFFICE OF THE DIRECTOR OF NATIONAL**
 18 **INTELLIGENCE.**

19 Section 4(b) of the Federal Advisory Committee Act
 20 (5 U.S.C. App.) is amended—

21 (1) in paragraph (1), by striking “or”;

22 (2) in paragraph (2), by striking the period and
 23 inserting “; or”; and

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

1 “(3) the Office of the Director of National In-
2 telligence.”.

3 **SEC. 414. MEMBERSHIP OF THE DIRECTOR OF NATIONAL**
4 **INTELLIGENCE ON THE TRANSPORTATION**
5 **SECURITY OVERSIGHT BOARD.**

6 Subparagraph (F) of section 115(b)(1) of title 49,
7 United States Code, is amended to read as follows:

8 “(F) The Director of National Intelligence,
9 or the Director’s designee.”.

10 **SEC. 415. TEMPORARY INAPPLICABILITY TO THE OFFICE**
11 **OF THE DIRECTOR OF NATIONAL INTEL-**
12 **LIGENCE OF CERTAIN FINANCIAL REPORT-**
13 **ING REQUIREMENTS.**

14 (a) IN GENERAL.—The Director of National Intel-
15 ligence shall not be required to submit an audited financial
16 statement under section 3515 of title 31, United States
17 Code, for the Office of the Director of National Intel-
18 ligence with respect to fiscal year 2005, 2006, or 2007.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that the Director of National Intelligence should
21 make every effort to comply with the requirements of sec-
22 tion 3515 of title 31, United States Code, at the earliest
23 possible date, notwithstanding the exemption in subsection
24 (a).

1 **SEC. 416. APPLICABILITY OF THE PRIVACY ACT TO THE DI-**
2 **RECTOR OF NATIONAL INTELLIGENCE AND**
3 **THE OFFICE OF THE DIRECTOR OF NATIONAL**
4 **INTELLIGENCE.**

5 (a) **AUTHORITY TO EXEMPT.**—The Director of Na-
6 tional Intelligence may prescribe regulations to exempt
7 any system of records within the Office of the Director
8 of National Intelligence from the applicability of the provi-
9 sions of subsections (c)(3), (c)(4), and (d) of section 552a
10 of title 5, United States Code.

11 (b) **PROMULGATION REQUIREMENTS.**—In prescribing
12 any regulations under subsection (a), the Director shall
13 comply with the requirements (including general notice re-
14 quirements) of subsections (b), (c), and (e) of section 553
15 of title 5, United States Code.

16 **SEC. 417. TEMPORARY EXEMPTION FROM PERSONNEL LIM-**
17 **ITS OF CERTAIN OFFICE OF DIRECTOR OF**
18 **NATIONAL INTELLIGENCE PERSONNEL AS-**
19 **SIGNED TO THE NATIONAL**
20 **COUNTERTERRORISM CENTER.**

21 (a) **EXEMPTION.**—Any personnel position in the Of-
22 fice of the Director of National Intelligence that is held
23 by an employee of the Office of the Director of National
24 Intelligence who is assigned on a full-time basis to the Na-
25 tional Counterterrorism Center shall not be counted
26 against any limitation applicable to new personnel posi-

1 tions within the Office of the Director of National Intel-
 2 ligence under section 1096 of the National Security Intel-
 3 ligence Reform Act of 2004 (title I of Public Law 108–
 4 458; 118 Stat. 3698; 50 U.S.C. 401 note).

5 (b) APPLICABILITY.—Subsection (a) shall apply dur-
 6 ing fiscal years 2005 and 2006.

7 **Subtitle B—Central Intelligence** 8 **Agency**

9 **SEC. 421. DIRECTOR AND DEPUTY DIRECTOR OF THE CEN-** 10 **TRAL INTELLIGENCE AGENCY.**

11 (a) APPOINTMENT OF DIRECTOR OF CENTRAL IN-
 12 TELLIGENCE AGENCY.—~~Section 104A(a)~~ *Subsection (a) of*
 13 *section 104A* of the National Security Act of 1947 (50
 14 U.S.C. 403–4a~~(a)~~) is amended by inserting “from civilian
 15 life” after “who shall be appointed”.

16 (b) ESTABLISHMENT OF POSITION OF DEPUTY DI-
 17 RECTOR OF CENTRAL INTELLIGENCE AGENCY.—Such
 18 section is further amended—

19 (1) by redesignating subsections (b), (c), (d),
 20 (e), (f), and (g) as subsections (c), (d), (e), (f), (g),
 21 and (h), respectively; and

22 (2) by inserting after subsection (a) the fol-
 23 lowing new subsection (b):

24 “(b) DEPUTY DIRECTOR OF CENTRAL INTEL-
 25 LIGENCE AGENCY.—(1) There is a Deputy Director of the

1 Central Intelligence Agency who shall be appointed from
2 civilian life by the President, by and with the advice and
3 consent of the Senate.

4 “(2) The Deputy Director of the Central Intelligence
5 Agency shall assist the Director of the Central Intelligence
6 Agency in carrying out the duties and responsibilities of
7 the Director.

8 “(3) The Deputy Director of the Central Intelligence
9 Agency shall act for, and exercise the powers of, the Direc-
10 tor of the Central Intelligence Agency during the absence
11 or disability of the Director of the Central Intelligence
12 Agency or during a vacancy in the position of Director
13 of the Central Intelligence Agency.”.

14 (c) CONFORMING AMENDMENT.—Paragraph (2) of
15 subsection (d) of such section, as redesignated by sub-
16 section (b)(1) of this section, is further amended by strik-
17 ing “subsection (d)” and inserting “subsection (e)”.

18 (d) EXECUTIVE SCHEDULE LEVEL III.—Section
19 5314 of title 5, United States Code, is amended by adding
20 at the end the following new item:

21 “Deputy Director of the Central Intelligence
22 Agency.”.

23 (e) ROLE OF DNI IN APPOINTMENT.—Section
24 106(a)(2) of the National Security Act of 1947 (50 U.S.C.

1 403–6) is amended by adding at the end the following new
2 subparagraph:

3 “(C) The Deputy Director of the Central Intel-
4 ligence Agency.”.

5 (f) MILITARY STATUS OF INDIVIDUAL ADMINISTRA-
6 TIVELY PERFORMING DUTIES OF DEPUTY DIRECTOR OF
7 CENTRAL INTELLIGENCE AGENCY.—(1) The commis-
8 sioned officer of the Armed Forces who is engaged in ad-
9 ministrative performance of the duties of Deputy Director
10 of the Central Intelligence Agency as of the date of the
11 enactment of this Act shall not, while continuing in the
12 administrative performance of such duties after that
13 date—

14 (A) be subject to supervision or control by the
15 Secretary of Defense or by any officer or employee
16 of the Department of Defense; or

17 (B) exercise, by reason of the officer’s status as
18 a commissioned officer, any supervision or control
19 with respect to any of the military or civilian per-
20 sonnel of the Department of Defense except as oth-
21 erwise authorized by law.

22 (2) Except as provided in subparagraph (A) or (B)
23 of paragraph (1), the administrative performance of duties
24 described in that paragraph by the officer described in
25 that paragraph shall not affect the status, position, rank,

1 or grade of the officer in the Armed Forces, or any emolu-
2 ment, perquisite, right, privilege, or benefit incident to or
3 arising out of such status, position, rank, or grade.

4 (3) The commissioned officer described in paragraph
5 (1), while continuing in the administrative performance of
6 duties as described in that paragraph and while remaining
7 on active duty, shall continue to receive military pay and
8 allowances. Funds from which such pay and allowances
9 are paid shall be reimbursed from funds available to the
10 Director of the Central Intelligence Agency.

11 (g) EFFECTIVE DATE AND APPLICABILITY.—The
12 amendments made by subsections (b) through (e) shall
13 take effect on the date of the enactment of this Act and
14 shall apply upon the earlier of—

15 (1) the date of the nomination by the President
16 of an individual to serve as Deputy Director of the
17 Central Intelligence Agency, except that the indi-
18 vidual administratively performing the duties of the
19 Deputy Director of the Central Intelligence Agency
20 as of the date of the enactment of this Act may con-
21 tinue to perform such duties after such date of nom-
22 ination and until the individual appointed to the po-
23 sition of Deputy Director of the Central Intelligence
24 Agency, by and with the advice and consent of the
25 Senate, assumes the duties of such position; or

1 (2) the date of the cessation of the performance
 2 of the duties of Deputy Director of the Central In-
 3 telligence Agency by the individual administratively
 4 performing such duties as of the date of the enact-
 5 ment of this Act.

6 **SEC. 422. ENHANCED PROTECTION OF CENTRAL INTEL-**
 7 **LIGENCE AGENCY INTELLIGENCE SOURCES**
 8 **AND METHODS FROM UNAUTHORIZED DIS-**
 9 **CLOSURE.**

10 (a) RESPONSIBILITY OF DIRECTOR OF CENTRAL IN-
 11 TELLIGENCE AGENCY UNDER NATIONAL SECURITY ACT
 12 OF 1947.—Subsection (e) of section 104A of the National
 13 Security Act of 1947 (50 U.S.C. 403–4a), as amended by
 14 section ~~403(b)~~ of this Act and redesignated by section
 15 421(b)(1) of this Act, is further amended—

16 (1) in paragraph ~~(2)~~ (3), by striking “and” at
 17 the end;

18 (2) by redesignating paragraph ~~(3)~~ (4) as para-
 19 graph ~~(4)~~ (5); and

20 (3) by inserting after paragraph ~~(2)~~ (3) the fol-
 21 lowing new paragraph ~~(3)~~ (4):

22 “~~(3)~~ (4) protect intelligence sources and meth-
 23 ods of the Central Intelligence Agency from unau-
 24 thorized disclosure, consistent with any direction

1 issued by the President or the Director of National
2 Intelligence; and”.

3 (b) PROTECTION UNDER CENTRAL INTELLIGENCE
4 AGENCY ACT OF 1949.—Section 6 of the Central Intel-
5 ligence Agency Act of 1949 (50 U.S.C. 403g) is amended
6 by striking “section 102A(i)” and all that follows through
7 “unauthorized disclosure” and inserting “sections 102A(i)
8 and ~~104A(e)(3)~~ 104A(e)(4) of the National Security Act
9 of 1947 (50 U.S.C. 403–1(i), ~~403–4a(e)(3))~~ 403–
10 4a(e)(4))”.

11 (c) CONSTRUCTION WITH EXEMPTION FROM RE-
12 QUIREMENT FOR DISCLOSURE OF INFORMATION TO PUB-
13 LIC.—Section ~~104A(e)(3)~~ 104A(e)(4) of the National Se-
14 curity Act of 1947, as amended by subsection (a), and
15 section 6 of the Central Intelligence Agency Act of 1949,
16 as amended by subsection (b), shall be treated as statutes
17 that specifically exempt from disclosure the matters speci-
18 fied in such sections for purposes of section 552(b)(3) of
19 title 5, United States Code.

20 **SEC. 423. ADDITIONAL EXCEPTION TO FOREIGN LANGUAGE**
21 **PROFICIENCY REQUIREMENT FOR CERTAIN**
22 **SENIOR LEVEL POSITIONS IN THE CENTRAL**
23 **INTELLIGENCE AGENCY.**

24 (a) ADDITIONAL EXCEPTION.—Subsection (h) of sec-
25 tion 104A of the National Security Act of 1947 (50 U.S.C.

1 403–4a), as redesignated by section 421(b)(1) of this Act,
 2 is further amended—

3 (1) in paragraph (1), by striking “paragraph
 4 (2)” and inserting “paragraphs (2) and (3)”;

5 (2) in paragraph (2), by striking “position or
 6 category of positions” each place it appears and in-
 7 serting “individual, individuals, position, or category
 8 of positions”; and

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

11 “(3) Paragraph (1) shall not apply to any individual
 12 in the Directorate of Intelligence or the Directorate of Op-
 13 erations of the Central Intelligence Agency who is serving
 14 in a Senior Intelligence Service position as of December
 15 23, 2004, regardless of whether such individual is a mem-
 16 ber of the Senior Intelligence Service.”.

17 (b) REPORT ON WAIVERS.—Section 611(c) of the In-
 18 telligence Authorization Act for Fiscal Year 2005 (Public
 19 Law 108–487; 118 Stat. 3955) is amended—

20 (1) in the first sentence—

21 (A) by inserting “individuals or” before
 22 “positions”; and

23 (B) by striking “section 104A(g) of the
 24 National Security Act of 1947, as added by
 25 subsection (a)” and inserting “section 104A(h)

1 of the National Security Act of 1947, as added
 2 by subsection (a) and redesignated by section
 3 421(b)(1) of the Intelligence Authorization Act
 4 for Fiscal Year 2006”; and
 5 (2) in the second sentence—

6 (A) by striking “section 104A(g)(2), as so
 7 added” and inserting “section 104A(h)(2), as
 8 so added and redesignated”; and

9 (B) by striking “position or category of po-
 10 sitions” and inserting “individual, individuals,
 11 position, or category of positions”.

12 **SEC. 424. EXCLUSION OF THE CENTRAL INTELLIGENCE**
 13 **AGENCY FROM ANNUAL REPORT ON IM-**
 14 **PROVEMENT OF FINANCIAL STATEMENTS**
 15 **FOR AUDITING PURPOSES.**

16 Section 114A of the National Security Act of 1947
 17 (50 U.S.C. 404i–1) is amended by striking “the Director
 18 of the Central Intelligence Agency,”.

19 **SEC. 425. ADDITIONAL FUNCTIONS AND AUTHORITIES FOR**
 20 **PROTECTIVE PERSONNEL OF THE CENTRAL**
 21 **INTELLIGENCE AGENCY.**

22 Section 5(a)(4) of the Central Intelligence Agency
 23 Act of 1949 (50 U.S.C. 403f(a)(4)) is amended—

24 (1) by inserting “(A)” after “(4)”;

25 (2) in subparagraph (A), as so designated—

1 (A) by striking “and the protection” and
2 inserting “the protection”; and

3 (B) by striking the semicolon and inserting
4 “, and the protection of the Director of Na-
5 tional Intelligence and such personnel of the Of-
6 fice of the Director of National Intelligence as
7 the Director of National Intelligence may des-
8 ignate; and”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) Authorize personnel engaged in the per-
12 formance of protective functions authorized pursuant
13 to subparagraph (A), when engaged in the perform-
14 ance of such functions, to make arrests without war-
15 rant for any offense against the United States com-
16 mitted in the presence of such personnel, or for any
17 felony cognizable under the laws of the United
18 States, if such personnel have reasonable grounds to
19 believe that the person to be arrested has committed
20 or is committing such felony, except that any au-
21 thority pursuant to this subparagraph may be exer-
22 cised only in accordance with guidelines approved by
23 the Director and the Attorney General and such per-
24 sonnel may not exercise any authority for the service

1 of civil process or for the investigation of criminal
 2 offenses;”.

3 **SEC. 426. MODIFICATION OF EXCLUSION OF MILITARY OF-**
 4 **FICER SERVING AS ASSOCIATE DIRECTOR OF**
 5 **THE CENTRAL INTELLIGENCE AGENCY FOR**
 6 **MILITARY SUPPORT FROM OFFICER**
 7 **STRENGTH AND DISTRIBUTION-IN-GRADE**
 8 **LIMITATIONS.**

9 (a) IN GENERAL.—Section 528 of title 10, United
 10 States Code, is amended to read as follows:

11 **“§ 528. Exclusion: officer serving as Associate Direc-**
 12 **tor of the Central Intelligence Agency for**
 13 **Military Support**

14 “An officer of the armed forces assigned to the posi-
 15 tion of Associate Director of the Central Intelligence
 16 Agency for Military Support, while serving in that posi-
 17 tion, shall not be counted against the numbers and per-
 18 centages of the grade of that officer authorized for that
 19 officer’s armed force.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of chapter 32 of such title is amended
 22 by striking the item relating to section 528 and inserting
 23 the following new item:

“528. Exclusion: officer serving as Associate Director of the Central Intelligence
 Agency for Military Support.”.

1 **Subtitle C—Defense Intelligence**
2 **Components**

3 **SEC. 431. MODIFICATION OF REQUIREMENTS ON DISCLO-**
4 **SURE OF GOVERNMENTAL AFFILIATION BY**
5 **DEPARTMENT OF DEFENSE INTELLIGENCE**
6 **PERSONNEL.**

7 (a) DISCLOSURE.—Subsection (a) of section 503 of
8 the Intelligence Authorization Act for Fiscal Year 1995
9 (Public Law 103–359; 108 Stat. 3430; 10 U.S.C. 424
10 note) is amended—

11 (1) by striking “Notwithstanding” and insert-
12 ing “(1) Except as provided in paragraph (2) and
13 notwithstanding”;

14 (2) in paragraph (1), as so designated—

15 (A) by striking “intelligence” the second
16 place it appears and inserting “foreign intel-
17 ligence”; and

18 (B) by striking “an initial assessment con-
19 tact outside the United States” and inserting
20 “assessment contacts”; and

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

23 “(2) Intelligence personnel described in paragraph
24 (1) shall be required, when making an assessment contact
25 within the United States, to give notice of governmental

1 affiliation to potential sources who are United States per-
2 sons unless the Director of the Defense Intelligence Agen-
3 cy, or the single designee of the Director, determines
4 that—

5 “(A) foreign intelligence, counterintelligence, se-
6 curity, or other operational concerns require that
7 such notice not be given; and

8 “(B) such assessment contact is undertaken for
9 the purpose of determining whether such United
10 States person possesses, or has access to, foreign in-
11 telligence information, and whether such United
12 States person is credible or suitable as a source, pro-
13 vided that no assessment contact shall be under-
14 taken under this section for the purpose of acquiring
15 information concerning the domestic activities of any
16 United States person.”.

17 (b) INFORMATION IN RECORDS.—Subsection (b) of
18 such section is amended by striking the second sentence
19 and inserting the following new sentence: “Such records
20 shall include the authority under which the information
21 was collected, any interagency coordination required be-
22 fore the contact, a brief description of such coordination,
23 the basis for not disclosing governmental affiliation (if not
24 disclosed), the nature of the information obtained from
25 any United States person as a result of the contact, and

1 whether any assessment contacts beyond an initial assess-
2 ment contact resulted with the person concerned.”.

3 (c) CONFORMING AMENDMENT.—The heading of
4 such section is amended by striking “**OUTSIDE OF THE**
5 **UNITED STATES**”.

6 (d) ASSESSMENT CONTACTS.—(1) The Director of
7 National Intelligence shall examine the legal and regu-
8 latory requirements or guidelines applicable to assessment
9 contacts in order to determine whether such requirements
10 or guidelines should be modified to ensure that appro-
11 priate protections are afforded United States persons in
12 such contacts after the amendments made by this section
13 come into effect.

14 (2) If the Director determines as a result of the ex-
15 amination required by paragraph (1) that the require-
16 ments or guidelines described in that paragraph should be
17 modified as specified in that paragraph, the Director shall
18 so modify such requirements or regulations.

19 (3) Nothing in this section or the amendments made
20 by this section shall be deemed or construed to constitute
21 authority for the collection, retention, or dissemination of
22 information concerning United States persons not other-
23 wise authorized by law or Executive order.

1 **SEC. 432. ENHANCEMENTS OF NATIONAL SECURITY AGEN-**
2 **CY TRAINING PROGRAM.**

3 (a) **TERMINATION OF EMPLOYEES.**—Subsection
4 (d)(1)(C) of section 16 of the National Security Agency
5 Act of 1959 (50 U.S.C. 402 note) is amended by striking
6 “terminated either by” and all that follows and inserting
7 “terminated—

8 “(i) by the Agency due to misconduct by
9 the employee;

10 “(ii) by the employee voluntarily; or

11 “(iii) by the Agency for the failure of the
12 employee to maintain such level of academic
13 standing in the educational course of training
14 as the Director of the National Security Agency
15 shall have specified in the agreement of the em-
16 ployee under this subsection; and”.

17 (b) **AUTHORITY TO WITHHOLD DISCLOSURE OF AF-**
18 **FILIATION WITH NSA.**—Subsection (e) of such section is
19 amended by striking “(1) When an employee” and all that
20 follows through “(2) Agency efforts” and inserting “Agen-
21 cy efforts”.

1 **SEC. 433. CODIFICATION OF AUTHORITIES OF NATIONAL**
2 **SECURITY AGENCY PROTECTIVE PER-**
3 **SONNEL.**

4 The National Security Agency Act of 1959 (50
5 U.S.C. 402 note) is amended by adding at the end the
6 following new section:

7 “SEC. 20. (a) The Director is authorized to designate
8 personnel of the Agency to perform protective functions
9 for the Director and for any personnel of the Agency des-
10 ignated by the Director.

11 “(b)(1) In the performance of protective functions
12 under this section, personnel of the Agency designated to
13 perform protective functions pursuant to subsection (a)
14 are authorized, when engaged in the performance of such
15 functions, to make arrests without a warrant for—

16 “(A) any offense against the United States
17 committed in the presence of such personnel; or

18 “(B) any felony cognizable under the laws of
19 the United States if such personnel have reasonable
20 grounds to believe that the person to be arrested has
21 committed or is committing such felony.

22 “(2) The authority in paragraph (1) may be exercised
23 only in accordance with guidelines approved by the Direc-
24 tor and the Attorney General.

25 “(3) Personnel of the Agency designated to perform
26 protective functions pursuant to subsection (a) shall not

1 exercise any authority for the service of civil process or
 2 the investigation of criminal offenses.

3 “(c) Nothing in this section shall be construed to im-
 4 pair or otherwise affect any authority under any other pro-
 5 vision of law relating to the performance of protective
 6 functions.”.

7 **SEC. 434. PROTECTION OF OPERATIONAL FILES OF THE DE-**
 8 **ENSE INTELLIGENCE AGENCY.**

9 (a) ~~IN GENERAL.~~—Title VII of the National Security
 10 Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding
 11 at the end the following new section:

12 “OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE
 13 AGENCY

14 “SEC. 705. (a) ~~EXEMPTION OF CERTAIN OPER-~~
 15 ~~ATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION,~~
 16 ~~OR DISCLOSURE.~~—Operational files of the Defense Intel-
 17 ligence Agency may be exempted by the Director of the
 18 Defense Intelligence Agency, in coordination with the Di-
 19 rector of National Intelligence, from the provisions of sec-
 20 tion 552 of title 5, United States Code, which require pub-
 21 lication, disclosure, search, or review in connection there-
 22 with.

23 “(b) ~~OPERATIONAL FILES DEFINED.~~—(1) In this
 24 section, the term ‘operational files’ means—

25 “(A) files of the Directorate of Human Intel-
 26 ligence of the Defense Intelligence Agency, or its

1 successor organizations, which document the conduct
2 of foreign intelligence or counterintelligence oper-
3 ations, intelligence or security liaison arrangements,
4 or information exchanges with foreign governments
5 or their intelligence or security services; and

6 “(B) files of the Directorate of Technology of
7 the Defense Intelligence Agency, or its successor or-
8 ganizations, which document the means by which
9 foreign intelligence or counterintelligence is collected
10 through technical systems.

11 “(2) Files which are the sole repository of dissemi-
12 nated intelligence are not operational files.

13 “(c) SEARCH AND REVIEW FOR INFORMATION.—
14 Notwithstanding subsection (a), exempted operational files
15 shall continue to be subject to search and review for infor-
16 mation concerning any of the following:

17 “(1) United States citizens or aliens lawfully
18 admitted for permanent residence who have re-
19 quested information on themselves pursuant to the
20 provisions of section 552 or 552a of title 5, United
21 States Code.

22 “(2) Any special activity the existence of which
23 is not exempt from disclosure under the provisions
24 of section 552 of title 5, United States Code.

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

5 “(A) The Committee on Armed Services
6 and the Permanent Select Committee on Intel-
7 ligence of the House of Representatives.

8 “(B) The Committee on Armed Services
9 and the Select Committee on Intelligence of the
10 Senate.

11 “(C) The Intelligence Oversight Board.

12 “(D) The Department of Justice.

13 “(E) The Office of the Director of the De-
14 fense Intelligence Agency.

15 “(F) The Office of the Director of Na-
16 tional Intelligence.

17 “(G) The Office of General Counsel of the
18 Defense Intelligence Agency.

19 “(H) The Office of General Counsel of the
20 Department of Defense.

21 “(I) The Office of the General Counsel of
22 the Office of the Director of National Intel-
23 ligence.

24 “(J) The Office of Inspector General of the
25 Defense Intelligence Agency.

1 “(K) The Office of Inspector General of
2 the Department of Defense.

3 “(L) The Office of Inspector General of
4 the Intelligence Community.

5 “(d) INFORMATION DERIVED OR DISSEMINATED
6 FROM EXEMPTED OPERATIONAL FILES.—(1) Files that
7 are not exempted under subsection (a) which contain in-
8 formation derived or disseminated from exempted oper-
9 ational files shall be subject to search and review.

10 “(2) The inclusion of information from exempted
11 operational files in files that are not exempted under sub-
12 section (a) shall not affect the exemption under subsection
13 (a) of the originating operational files from search, review,
14 publication, or disclosure.

15 “(3) Records from exempted operational files which
16 have been disseminated to and referenced in files that are
17 not exempted under subsection (a) and which have been
18 returned to exempted operational files for sole retention
19 shall be subject to search and review.

20 “(e) SUPERSEDURE OF OTHER LAWS.—The provi-
21 sions of subsection (a) shall not be superseded except by
22 a provision of law which is enacted after the date of the
23 enactment of this section and that specifically cites and
24 repeals or modifies such provisions.

1 “(f) ALLEGATION; IMPROPER WITHHOLDING OF
 2 RECORDS; JUDICIAL REVIEW.—(1) Whenever any person
 3 who has requested agency records under section 552 of
 4 title 5, United States Code, alleges that the Defense Intel-
 5 ligence Agency has improperly withheld records because
 6 of failure to comply with any provision of this section, ju-
 7 dicial review shall be available under the terms set forth
 8 in section 552(a)(4)(B) of title 5, United States Code, ex-
 9 cept as provided in paragraph (2).

10 “(2) Any judicial review under paragraph (1) shall
 11 proceed under the terms set forth in section 552(a)(4)(B)
 12 of title 5, United States Code, except as follows:

13 “(A) In any case in which information specifi-
 14 cally authorized under criteria established by an Ex-
 15 ecutive Order to be kept secret in the interest of na-
 16 tional defense or foreign relations which is filed
 17 with, or produced for, the court by the Defense In-
 18 telligence Agency, such information shall be exam-
 19 ined ex parte, in camera by the court.

20 “(B) The court shall, to the fullest extent prac-
 21 ticable, determine issues of fact based on sworn writ-
 22 ten submissions of the parties.

23 “(C) When a complaint alleges that requested
 24 records were improperly withheld because of im-
 25 proper placement solely in exempted operational

1 files, the complainant shall support such allegation
2 with a sworn written submission, based upon per-
3 sonal knowledge or otherwise admissible evidence.

4 “(D)(i) When a complainant alleges that re-
5 quested records were improperly withheld because of
6 improper exemption of operational files, the Defense
7 Intelligence Agency shall meet its burden under sec-
8 tion 552(a)(4)(B) of title 5, United States Code, by
9 demonstrating to the court by sworn written submis-
10 sion that exempted operational files likely to contain
11 responsive records currently perform the functions
12 set forth in subsection (b).

13 “(ii) The court may not order the Defense In-
14 telligence Agency to review the content of any ex-
15 empted operational file or files in order to make the
16 demonstration required under subparagraph (A) un-
17 less the complainant disputes the Defense Intel-
18 ligence Agency’s showing with a sworn written sub-
19 mission based on personal knowledge or otherwise
20 admissible evidence.

21 “(E) In proceedings under subparagraphs (C)
22 and (D), the parties shall not obtain discovery pur-
23 suant to rules 26 through 36 of the Federal Rules
24 of Civil Procedure, except that requests for admis-
25 sion may be made pursuant to rules 26 and 36.

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

12 “(G) If at any time following the filing of a
 13 complaint pursuant to this subsection the Defense
 14 Intelligence Agency agrees to search the appropriate
 15 exempted operational file or files for the requested
 16 records, the court shall dismiss the claim based upon
 17 such complaint.

18 “(H) Any information filed with or produced
 19 for the court pursuant to subparagraphs (A) and
 20 (D) shall be coordinated with the Director of Na-
 21 tional Intelligence before submission to the court.

22 “(g) DECENNIAL REVIEW OF EXEMPTED OPER-
 23 ATIONAL FILES.—(1) Not less than once every 10 years,
 24 the Director of the Defense Intelligence Agency and the
 25 Director of National Intelligence shall review the exemp-

1 tions in force under subsection (a) to determine whether
 2 such exemptions may be removed from any category of
 3 exempted files or any portion thereof. The Director of Na-
 4 tional Intelligence must approve any determination to re-
 5 move such 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 the particular category
 9 of files or portions thereof and the potential for declas-
 10 sifying a significant part of the information contained
 11 therein.

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

19 “(A) Whether the Defense Intelligence Agency
 20 has conducted the review required by paragraph (1)
 21 before the expiration of the 10-year period beginning
 22 on the date of the enactment of this section or be-
 23 fore the expiration of the 10-year period beginning
 24 on the date of the most recent review.

1 “(B) Whether the Defense Intelligence Agency,
2 in fact, considered the criteria set forth in paragraph
3 (2) in conducting the required review.”.

4 (b) **CLERICAL AMENDMENT.**—The table of contents
5 in the first section of that Act is amended by inserting
6 after the item relating to section 704 the following new
7 item:

~~“Sec. 705. Operational files of the Defense Intelligence Agency.”~~

8 (a) *PROTECTION OF OPERATIONAL FILES OF DEFENSE*
9 *INTELLIGENCE AGENCY.*—(1) *Title VII of the National Se-*
10 *curity Act of 1947 (50 U.S.C. 431 et. seq.) is amended by*
11 *adding at the end the following new section:*

“OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE
AGENCY

14 “SEC. 705. (a) EXEMPTION OF OPERATIONAL FILES.—
15 *The Director of the Defense Intelligence Agency, in coordi-*
16 *nation with the Director of National Intelligence, may ex-*
17 *empt operational files of the Defense Intelligence Agency*
18 *from the provisions of section 552 of title 5, United States*
19 *Code, which require publication, disclosure, search, or re-*
20 *view in connection therewith.*

21 “(b) *OPERATIONAL FILES DEFINED.*—(1) *In this sec-*
22 *tion, the term ‘operational files’ means—*

23 “(A) files of the Directorate of Human Intel-
24 ligence of the Defense Intelligence Agency (and any
25 successor organization of that directorate) that docu-

1 *ment the conduct of foreign intelligence or counter-*
 2 *intelligence operations or intelligence or security liai-*
 3 *son arrangements or information exchanges with for-*
 4 *ign governments or their intelligence or security*
 5 *services; and*

6 *“(B) files of the Directorate of Technology of the*
 7 *Defense Intelligence Agency (and any successor orga-*
 8 *nization of that directorate) that document the means*
 9 *by which foreign intelligence or counterintelligence is*
 10 *collected through technical systems.*

11 *“(2) Files that are the sole repository of disseminated*
 12 *intelligence are not operational files.*

13 *“(c) SEARCH AND REVIEW FOR INFORMATION.—Not-*
 14 *withstanding subsection (a), exempted operational files*
 15 *shall continue to be subject to search and review for infor-*
 16 *mation concerning:*

17 *“(1) United States citizens or aliens lawfully ad-*
 18 *mitted for permanent residence who have requested*
 19 *information on themselves pursuant to the provisions*
 20 *of section 552 or 552a of title 5, United States Code.*

21 *“(2) Any special activity the existence of which*
 22 *is not exempt from disclosure under the provisions of*
 23 *section 552 of title 5, United States Code.*

24 *“(3) The specific subject matter of an investiga-*
 25 *tion by any of the following for any impropriety, or*

1 *violation of law, Executive Order, or Presidential di-*
 2 *rective, in the conduct of an intelligence activity:*

3 “(A) *The Committee on Armed Services and*
 4 *the Permanent Select Committee on Intelligence*
 5 *of the House of Representatives.*

6 “(B) *The Committee on Armed Services and*
 7 *the Select Committee on Intelligence of the Sen-*
 8 *ate.*

9 “(C) *The Intelligence Oversight Board.*

10 “(D) *The Department of Justice.*

11 “(E) *The Office of General Counsel of the*
 12 *Department of Defense or of the Defense Intel-*
 13 *ligence Agency.*

14 “(F) *The Office of Inspector General of the*
 15 *Department of Defense or of the Defense Intel-*
 16 *ligence Agency.*

17 “(G) *The Office of the Director of the De-*
 18 *fense Intelligence Agency.*

19 “(d) *INFORMATION DERIVED OR DISSEMINATED FROM*
 20 *EXEMPTED OPERATIONAL FILES.—(1) Files that are not*
 21 *exempted under subsection (a) and contain information de-*
 22 *rived or disseminated from exempted operational files shall*
 23 *be subject to search and review.*

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

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

4 “(3) *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 “(4) *Records from exempted operational files that have*
 9 *been disseminated to and referenced in files that are not*
 10 *exempted under subsection (a) and that have been returned*
 11 *to exempted operational files for sole retention shall be sub-*
 12 *ject to search and review.*

13 “(e) *ALLEGATION; IMPROPER WITHHOLDING OF*
 14 *RECORDS; JUDICIAL REVIEW.—(1) Except as provided in*
 15 *paragraph (2), whenever any person who has requested*
 16 *agency records under section 552 of title 5, alleges that the*
 17 *Defense Intelligence Agency has withheld records improp-*
 18 *erly because of failure to comply with any provision of this*
 19 *section, judicial review shall be available under the terms*
 20 *set forth in section 552(a)(4)(B) of title 5, United States*
 21 *Code.*

22 “(2) *Judicial review shall be available in the manner*
 23 *provided under paragraph (1) as follows:*

24 “(A) *In any case in which information specifi-*
 25 *cally authorized under criteria established by an Ex-*

1 *ecutive order to be kept secret in the interest of na-*
2 *tional defense or foreign relations which is filed with,*
3 *or produced for, the court by the Defense Intelligence*
4 *Agency, such information shall be examined ex parte,*
5 *in camera by the court.*

6 *“(B) The court shall determine, to the fullest ex-*
7 *tent practicable, issues of fact based on sworn written*
8 *submissions of the parties.*

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

15 *“(D)(i) When a complainant alleges that re-*
16 *quested records were improperly withheld because of*
17 *improper exemption of operational files, the Defense*
18 *Intelligence Agency shall meet its burden under sec-*
19 *tion 552(a)(4)(B) of title 5, United States Code, by*
20 *demonstrating to the court by sworn written submis-*
21 *sion that exempted operational files likely to contain*
22 *responsible records currently perform the functions set*
23 *forth in subsection (b).*

24 *“(ii) The court may not order the Defense Intel-*
25 *ligence Agency to review the content of any exempted*

1 operational file or files in order to make the dem-
2 onstration required under clause (i), unless the com-
3 plainant disputes the Defense Intelligence Agency's
4 showing with a sworn written submission based on
5 personal knowledge or otherwise admissible evidence.

6 “(E) In proceedings under subparagraphs (C)
7 and (D), the parties shall not obtain discovery pursu-
8 ant to rules 26 through 36 of the Federal Rules of
9 Civil Procedure, except that requests for admission
10 may be made pursuant to rules 26 and 36.

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

23 “(G) If at any time following the filing of a com-
24 plaint pursuant to this paragraph the Defense Intel-
25 ligence Agency agrees to search the appropriate ex-

1 empted operational file or files for the requested
2 records, the court shall dismiss the claim based upon
3 such complaint; and

4 “(H) Any information filed with, or produced
5 for the court pursuant to subparagraphs (A) and (D)
6 shall be coordinated with the Director of National In-
7 telligence before submission to the court.

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

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 the 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 the Defense Intel-
22 ligence Agency has improperly withheld records because of
23 failure to comply with this subsection may seek judicial re-
24 view in the district court of the United States of the district
25 in which any of the parties reside, or in the District of

1 *Columbia. In such a proceeding, the court’s review shall be*
 2 *limited to determining the following:*

3 “(A) *Whether the Defense Intelligence Agency has*
 4 *conducted the review required by paragraph (1) before*
 5 *the expiration of the 10-year period beginning on the*
 6 *date of the enactment of this section or before the ex-*
 7 *piration of the 10-year period beginning on the date*
 8 *of the most recent review.*

9 “(B) *Whether the Defense Intelligence Agency, in*
 10 *fact, considered the criteria set forth in paragraph (2)*
 11 *in conducting the required review.”.*

12 (2) *The table of contents for that Act is amended by*
 13 *inserting after the item relating to section 704 the following*
 14 *new item:*

 “Sec. 705. *Operational files of the Defense Intelligence Agency.*”.

15 (b) *SEARCH AND REVIEW OF CERTAIN OTHER OPER-*
 16 *ATIONAL FILES.—The National Security Act of 1947 is fur-*
 17 *ther amended—*

18 (1) *in section 702(a)(3)(C) (50 U.S.C.*
 19 *432(a)(3)(C)), by adding the following new clause:*

20 “(vi) *The Office of the Inspector General of*
 21 *the National Geospatial-Intelligence Agency.”;*

22 (2) *in section 703(a)(3)(C) (50 U.S.C.*
 23 *432a(a)(3)(C)), by adding at the end the following*
 24 *new clause:*

1 “(vii) *The Office of the Inspector General of*
2 *the NRO.*”; and

3 (3) *in section 704(c)(3) (50 U.S.C. 432b(c)(3)),*
4 *by adding at the end the following subparagraph:*

5 “(H) *The Office of the Inspector General of*
6 *the National Security Agency.*”.

7 **SEC. 435. INSPECTOR GENERAL MATTERS.**

8 (a) COVERAGE UNDER INSPECTOR GENERAL ACT OF
9 1978.—Subsection (a)(2) of section 8G of the Inspector
10 General Act of 1978 (5 U.S.C. App. 8G) is amended—

11 (1) by inserting “the Defense Intelligence Agen-
12 cy,” after “the Corporation for Public Broad-
13 casting,”;

14 (2) by inserting “the National Geospatial-Intel-
15 ligence Agency,” after “the National Endowment for
16 the Arts,”; and

17 (3) by inserting “the National Reconnaissance
18 Office, the National Security Agency,” after “the
19 National Labor Relations Board,”.

20 (b) CERTAIN DESIGNATIONS UNDER INSPECTOR
21 GENERAL ACT OF 1978.—Subsection (a) of section 8H
22 of the Inspector General Act of 1978 (5 U.S.C. App. 8H)
23 is amended by adding at the end the following new para-
24 graph:

1 “(3) The Inspectors General of the Defense Intel-
2 ligence Agency, the National Geospatial-Intelligence Agen-
3 cy, the National Reconnaissance Office, and the National
4 Security Agency shall be designees of the Inspector Gen-
5 eral of the Department of Defense for purposes of this
6 section.”.

7 (c) POWER OF HEADS OF ELEMENTS OVER INVES-
8 TIGATIONS.—Subsection (d) of section 8G of that Act—

9 (1) by inserting “(1)” after “(d)”;

10 (2) in the second sentence of paragraph (1), as
11 designated by paragraph (1) of this subsection, by
12 striking “The head” and inserting “Except as pro-
13 vided in paragraph (2), the head”; and

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

16 “(2)(A) The Director of National Intelligence or the
17 Secretary of Defense may prohibit the Inspector General
18 of an element of the intelligence community specified in
19 subparagraph (D) from initiating, carrying out, or com-
20 pleting any audit or investigation if the Director or the
21 Secretary, as the case may be, determines that the prohibi-
22 tion is necessary to protect vital national security interests
23 of the United States.

24 “(B) If the Director or the Secretary exercises the
25 authority under subparagraph (A), the Director or the

1 Secretary, as the case may be, shall submit to the commit-
2 tees of Congress specified in subparagraph (E) an appro-
3 priately classified statement of the reasons for the exercise
4 of the authority not later than seven days after the exer-
5 cise of the authority.

6 “(C) At the same time the Director or the Secretary
7 submits under subparagraph (B) a statement on the exer-
8 cise of the authority in subparagraph (A) to the commit-
9 tees of Congress specified in subparagraph (E), the Direc-
10 tor or the Secretary, as the case may be, shall notify the
11 Inspector General of such element of the submittal of such
12 statement and, to the extent consistent with the protection
13 of intelligence sources and methods, provide the Inspector
14 General with a copy of such statement. The Inspector
15 General may submit to such committees of Congress any
16 comments on a notice or statement received by the Inspec-
17 tor General under this subparagraph that the Inspector
18 General considers appropriate.

19 “(D) The elements of the intelligence community
20 specified in this subparagraph are as follows:

21 “(i) The Defense Intelligence Agency.

22 “(ii) The National Geospatial-Intelligence Agen-
23 cy.

24 “(iii) The National Reconnaissance Office.

25 “(iv) The National Security Agency.

1 “(E) The committees of Congress specified in this
2 subparagraph are—

3 “(i) the Committee on Armed Services and the
4 Select Committee on Intelligence of the Senate; and

5 “(ii) the Committee on Armed Services and the
6 Permanent Select Committee on Intelligence of the
7 House of Representatives.”.

8 **SEC. 436. CONFIRMATION OF APPOINTMENT OF HEADS OF**
9 **CERTAIN COMPONENTS OF THE INTEL-**
10 **LIGENCE COMMUNITY.**

11 (a) DIRECTOR OF NATIONAL SECURITY AGENCY.—
12 The National Security Agency Act of 1959 (50 U.S.C. 402
13 note) is amended by inserting after the first section the
14 following new section:

15 “SEC. 2. (a) There is a Director of the National Secu-
16 rity Agency.

17 “(b) The Director of the National Security Agency
18 shall be appointed by the President, by and with the advice
19 and consent of the Senate.

20 “(c) The Director of the National Security Agency
21 shall be the head of the National Security Agency and
22 shall discharge such functions and duties as are provided
23 by this Act or otherwise by law.”.

1 (b) DIRECTOR OF NATIONAL GEOSPATIAL-INTEL-
 2 LIGENCE AGENCY.—Section 441(b) of title 10, United
 3 States Code, is amended—

4 (1) by redesignating paragraphs (2) and (3) as
 5 paragraphs (3) and (4), respectively; and

6 (2) by inserting after paragraph (1) the fol-
 7 lowing new paragraph (2):

8 “(2) The Director of the National Geospatial Intel-
 9 ligence Agency shall be appointed by the President, by and
 10 with the advice and consent of the Senate.”.

11 (c) DIRECTOR OF NATIONAL RECONNAISSANCE OF-
 12 FICE.—The Director of the National Reconnaissance Of-
 13 fice shall be appointed by the President, by and with the
 14 advice and consent of the Senate.

15 (d) *POSITIONS OF IMPORTANCE AND RESPONSI-*
 16 *BILITY.*—

17 (1) *DESIGNATION OF POSITIONS.*—*The President*
 18 *may designate any of the positions referred to in*
 19 *paragraph (2) as positions of importance and respon-*
 20 *sibility under section 601 of title 10, United States*
 21 *Code.*

22 (2) *COVERED POSITIONS.*—*The positions referred*
 23 *to in this paragraph are as follows:*

24 (A) *The Director of the National Security*
 25 *Agency.*

1 (B) *The Director of the National*
 2 *Geospatial-Intelligence Agency.*

3 (C) *The Director of the National Reconnaissance*
 4 *Office.*

5 ~~(d)~~ (e) EFFECTIVE DATE AND APPLICABILITY.—(1)

6 The amendments made by subsections (a) and (b), and
 7 subsection (c), shall take effect on the date of the enact-
 8 ment of this Act and shall apply upon the earlier of—

9 ~~(1)~~ (A) the date of the nomination by the Presi-
 10 dent of an individual to serve in the position con-
 11 cerned, except that the individual serving in such po-
 12 sition as of the date of the enactment of this Act
 13 may continue to perform such duties after such date
 14 of nomination and until the individual appointed to
 15 such position, by and with the advice and consent of
 16 the Senate, assumes the duties of such position; or

17 ~~(2)~~ (B) the date of the cessation of the perform-
 18 ance of the duties of such position by the individual
 19 performing such duties as of the date of the enact-
 20 ment of this Act.

21 (2) *Subsection (d) shall take effect on the date of the*
 22 *enactment of this Act.*

1 **SEC. 437. SECURITY CLEARANCES IN THE NATIONAL**
 2 **GEOSPATIAL-INTELLIGENCE AGENCY.**

3 (a) IN GENERAL.—Subject to subsection (b), the Di-
 4 rector of National Intelligence or the Secretary of Defense,
 5 or the Director of the National Geospatial-Intelligence
 6 Agency upon the delegation of either such official, may
 7 utilize with respect to the personnel of the National
 8 Geospatial-Intelligence Agency any security clearance au-
 9 thority (including any authority relating to the use of con-
 10 tractor personnel in investigations or adjudications for se-
 11 curity clearances) that is available to the Director of Na-
 12 tional Intelligence, the Secretary of Defense, or the Direc-
 13 tor of the National Security Agency with respect to the
 14 personnel of the National Security Agency.

15 (b) EXPIRATION.—Subsection (a) shall cease to have
 16 effect on December 31, 2007.

17 **SEC. 438. SENSE OF CONGRESS ON FUNDING OF THE**
 18 **COBRA JUDY REPLACEMENT PROGRAM.**

19 (a) *FINDINGS.*—Congress makes the following findings:

20 (1) *The COBRA JUDY Replacement will replace*
 21 *the United States Naval Ship (USNS) Observation*
 22 *Island which is due to leave service in 2012.*

23 (2) *The USNS Observation Island and the*
 24 *COBRA JUDY Replacement satisfy vital intelligence*
 25 *requirements necessary for the acquisition of defensive*

1 *systems designed to defend the Nation from ballistic*
 2 *missile attack.*

3 *(b) SENSE OF CONGRESS.—It is the sense of Con-*
 4 *gress—*

5 *(1) to strongly support the development and inte-*
 6 *gration of the solid-state phased array radar tech-*
 7 *nology and ship in the COBRA JUDY Replacement*
 8 *as a wise investment in intelligence collection which*
 9 *monitors foreign threats and to support the acquisi-*
 10 *tion of ballistic missile defensive systems; and*

11 *(2) that the Secretary of Defense and the Direc-*
 12 *tor of National Intelligence should continue, in forth-*
 13 *coming future-years defense programs under section*
 14 *221 of title 10, United States Code, to provide for*
 15 *funding of the COBRA JUDY Replacement program*
 16 *in order to support the national defense requirements*
 17 *of the United States.*

18 **Subtitle D—Other Elements**

19 **SEC. 441. DEPARTMENT OF JUSTICE INTELLIGENCE MAT-** 20 **TERS.**

21 *(a) ASSISTANT ATTORNEY GENERAL FOR NATIONAL*
 22 *SECURITY.—*

23 *(1) IN GENERAL.—Chapter 31 of title 28,*
 24 *United States Code, is amended by inserting after*
 25 *section 507 the following new section:*

1 **“§ 507A. Assistant Attorney General for National Se-**
 2 **curity**

3 “(a) Of the Assistant Attorneys General appointed
 4 under section 506, one shall serve, upon the designation
 5 of the President, as the Assistant Attorney General for
 6 National Security.

7 “(b) The Assistant Attorney General for National Se-
 8 curity shall—

9 “(1) serve as the head of the National Security
 10 Division of the Department of Justice under section
 11 509A of this title;

12 “(2) serve as primary liaison to the Director of
 13 National Intelligence for the Department of Justice;

14 “(3) perform such other duties as the Attorney
 15 General may prescribe; and

16 “(4) perform such other duties and functions as
 17 the Director of National Intelligence may prescribe,
 18 except that the Director shall have no authority
 19 through the Assistant Attorney General to perform
 20 any police, subpoena, law enforcement, or prosecu-
 21 tion powers or internal security functions not other-
 22 wise authorized by law.”.

23 (2) ADDITIONAL ASSISTANT ATTORNEY GEN-
 24 ERAL.—Section 506 of title 28, United States Code,
 25 is amended by striking “ten” and inserting “11”.

1 (3) EXECUTIVE SCHEDULE MATTERS.—Section
2 5315 of title 5, United States Code, is amended by
3 striking the matter relating to Assistant Attorneys
4 General and inserting the following:

5 “Assistant Attorneys General (11).”.

6 (4) CONCURRENCE OF DIRECTOR OF NATIONAL
7 INTELLIGENCE IN APPOINTMENT.—Section
8 106(b)(2) of the National Security Act of 1947 (50
9 U.S.C. 403–6(b)(2)) is amended by adding at the
10 end the following new subparagraph:

11 “(J) The Assistant Attorney General designated
12 as the Assistant Attorney General for National Se-
13 curity under section 507A of title 28, United States
14 Code.”.

15 (5) AUTHORITY TO ACT FOR ATTORNEY GEN-
16 ERAL UNDER FOREIGN INTELLIGENCE SURVEIL-
17 LANCE ACT OF 1978.—Section 101(g) of the For-
18 eign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1801(g)) is amended by striking “or the
20 Deputy Attorney General” and inserting “, the Dep-
21 uty Attorney General, or, upon the designation of
22 the Attorney General, the Assistant Attorney Gen-
23 eral designated as the Assistant Attorney General
24 for National Security under section 507A of title 28,
25 United States Code”.

1 (b) NATIONAL SECURITY DIVISION OF DEPARTMENT
2 OF JUSTICE.—Chapter 31 of title 28, United States Code,
3 is further amended by inserting after section 509 the fol-
4 lowing new section:

5 **“§ 509A. National Security Division**

6 “(a) There is a National Security Division of the De-
7 partment of Justice.

8 “(b) The National Security Division shall consist of
9 the elements of the Department of Justice (other than the
10 Federal Bureau of Investigation) engaged primarily in
11 support of the intelligence and intelligence-related activi-
12 ties of the United States Government, including the fol-
13 lowing:

14 “(1) The Assistant Attorney General designated
15 as the Assistant Attorney General for National Se-
16 curity under section 507A of this title.

17 “(2) The Office of Intelligence Policy and Re-
18 view (or any successor organization).

19 “(3) The counterterrorism section (or any suc-
20 cessor organization).

21 “(4) The counterespionage section (or any suc-
22 cessor organization).

23 “(5) Any other element, component, or office
24 jointly designated by the Attorney General and the
25 Director of National Intelligence.”.

1 (c) CLERICAL AMENDMENTS.—The table of sections
 2 at the beginning of chapter 31 of title 28, United States
 3 Code, is amended—

4 (1) by inserting after the item relating to sec-
 5 tion 507 the following new item:

“507A. Assistant Attorney General for National Security.”.

6 and

7 (2) by inserting after the item relating to sec-
 8 tion 509 the following new item:

“509A. National Security Division.”.

9 (d) INCLUSION IN INTELLIGENCE COMMUNITY OF
 10 ELEMENTS OF DEPARTMENT OF JUSTICE.—Section 3(4)
 11 of the National Security Act of 1947 (50 U.S.C. 401a(4))
 12 is amended—

13 (1) by redesignating subparagraph (L), as
 14 amended by section 303 of this Act, as subpara-
 15 graph (M); and

16 (2) by inserting after subparagraph (K) the fol-
 17 lowing new subparagraph (L):

18 “(L) The National Security Division of the De-
 19 partment of Justice, except those components or
 20 portions charged with the investigation or prosecu-
 21 tion of the offense of domestic terrorism.”.

22 (e) FUNDING FOR ASSISTANT ATTORNEY GENERAL
 23 AND NATIONAL SECURITY DIVISION.—(1) The President
 24 shall, from funds available for the National Intelligence

1 Program, make available to the Assistant Attorney Gen-
2 eral designated as the Assistant Attorney General for Na-
3 tional Security under section 507A of title 28, United
4 States Code (as added by subsection (a)), and to the Na-
5 tional Security Division of the Department of Justice
6 under section 509A of title 28, United States Code (as
7 added by subsection (b)), such funds as shall be required
8 for the performance of their duties, activities, and oper-
9 ations.

10 (2) It is the sense of Congress that the amount of
11 funds made available under paragraph (1), and the budg-
12 ets of the Assistant Attorney General and the National
13 Security Division of the Department of Justice, should,
14 to the maximum extent practicable, be unclassified.

15 (f) PROCEDURES FOR CONFIRMATION OF THE AS-
16 SISTANT ATTORNEY GENERAL FOR NATIONAL SECU-
17 RITY.—(1) Section 17 of Senate Resolution 400 (94th
18 Congress) is amended—

19 (A) in subsection (a), by striking “(a) The” and
20 inserting “(a)(1) Except as otherwise provided in
21 subsection (b), the”;

22 (B) in subsection (b), by striking “(b)” and in-
23 serting “(2)”; and

24 (C) by inserting after subsection (a) the fol-
25 lowing new subsection:

1 “(b)(1) With respect to the confirmation of the As-
2 sistant Attorney General for National Security, or any
3 successor position serving as the head of an element of
4 the intelligence community within the Department of Jus-
5 tice, the nomination of any individual by the President to
6 serve in such position shall be referred to the Committee
7 on the Judiciary and, if and when reported, to the select
8 Committee for not to exceed 20 calendar days, except that
9 in cases when the 20-day period expires while the Senate
10 is in recess, the select Committee shall have 5 additional
11 calendar days after the Senate reconvenes to report the
12 nomination.

13 “(2) If, upon the expiration of the period described
14 in paragraph (1), the select Committee has not reported
15 the nomination, such nomination shall be automatically
16 discharged from the select Committee and placed on the
17 Executive Calendar.”.

18 (2) Paragraph (1) is enacted—

19 (A) as an exercise of the rulemaking power of
20 the Senate; and

21 (B) with full recognition of the constitutional
22 right of the Senate to change the rules of the Senate
23 at any time and to the same extent as in the case
24 of any other rule of the Senate.

1 **SEC. 442. FOREIGN LANGUAGE INCENTIVE FOR CERTAIN**
2 **NON-SPECIAL AGENT EMPLOYEES OF THE**
3 **FEDERAL BUREAU OF INVESTIGATION.**

4 (a) **AUTHORITY TO PAY INCENTIVE.**—The Director
5 of the Federal Bureau of Investigation may pay a cash
6 award authorized by section 4523 of title 5, United States
7 Code, in accordance with the provisions of such section,
8 to any employee of the Federal Bureau of Investigation
9 described in subsection (b) as if such employee were a law
10 enforcement officer as specified in such section.

11 (b) **COVERED EMPLOYEES.**—An employee of the
12 Federal Bureau of Investigation described in this sub-
13 section is any employee of the Federal Bureau of Inves-
14 tigation—

15 (1) who uses foreign language skills in support
16 of the analyses, investigations, or operations of the
17 Bureau to protect against international terrorism or
18 clandestine intelligence activities (or maintains for-
19 eign language skills for purposes of such support);
20 and

21 (2) whom the Director of the Federal Bureau
22 of Investigation, subject to the joint guidance of the
23 Attorney General and the Director of National Intel-
24 ligence, may designate for purposes of this section.

1 **SEC. 443. AUTHORITY TO SECURE SERVICES BY CONTRACT**
2 **FOR THE BUREAU OF INTELLIGENCE AND RE-**
3 **SEARCH OF THE DEPARTMENT OF STATE.**

4 Title I of the State Department Basic Authorities Act
5 of 1956 (22 U.S.C. 2651a et seq.) is amended by inserting
6 after section 23 the following new section:

7 “SERVICES BY CONTRACT FOR BUREAU OF
8 INTELLIGENCE AND RESEARCH

9 “SEC. 23A. (a) AUTHORITY TO ENTER INTO CON-
10 TRACTS.—The Secretary may enter into contracts with in-
11 dividuals or organizations for the provision of services in
12 support of the mission of the Bureau of Intelligence and
13 Research of the Department of State if the Secretary de-
14 termines that—

15 “(1) the services to be procured are urgent or
16 unique; and

17 “(2) it would not be practicable for the Depart-
18 ment to obtain such services by other means.

19 “(b) TREATMENT AS EMPLOYEES OF THE UNITED
20 STATES GOVERNMENT.—(1) Individuals employed under
21 a contract pursuant to the authority in subsection (a) shall
22 not, by virtue of the performance of services under such
23 contract, be considered employees of the United States
24 Government for purposes of any law administered by the
25 Office of Personnel Management.

1 “(2) The Secretary may provide for the applicability
2 to individuals described in paragraph (1) of any law ad-
3 ministered by the Secretary concerning the employment
4 of such individuals.”.

5 **SEC. 444. CLARIFICATION OF INCLUSION OF COAST GUARD**
6 **ELEMENT IN THE INTELLIGENCE COMMU-**
7 **NITY.**

8 Section 3(4) of the National Security Act of 1947 (50
9 U.S.C. 401a(4)) is amended—

10 (1) in subparagraph (H), by inserting “the
11 Coast Guard,” after “the Marine Corps,”; and

12 (2) in subparagraph (K), by striking “, includ-
13 ing the Office of Intelligence of the Coast Guard”.

14 **SEC. 445. CLARIFYING AMENDMENTS RELATING TO SEC-**
15 **TION 105 OF THE INTELLIGENCE AUTHORIZA-**
16 **TION ACT FOR FISCAL YEAR 2004.**

17 Section 105(b) of the Intelligence Authorization Act
18 for Fiscal Year 2004 (Public Law 108–177; 117 Stat.
19 2603; 31 U.S.C. 311 note) is amended—

20 (1) by striking “Director of Central Intel-
21 ligence” and inserting “Director of National Intel-
22 ligence”; and

23 (2) by inserting “or in section 313 of such
24 title,” after “subsection (a)),”.

1 **TITLE V—OTHER MATTERS**

2 **SEC. 501. TECHNICAL AMENDMENTS TO THE NATIONAL SE-**
3 **CURITY ACT OF 1947.**

4 The National Security Act of 1947 (50 U.S.C. 401
5 et seq.) is amended as follows:

6 (1) In section 102A (50 U.S.C. 403–1)—

7 (A) in subsection (c)(7)(A), by striking
8 “section” and inserting “subsection”;

9 (B) in subsection (d)—

10 (i) in paragraph (3), by striking “sub-
11 paragraph (A)” in the matter preceding
12 subparagraph (A) and inserting “para-
13 graph (1)(A)”; and

14 (ii) in paragraph (5)(A), by striking
15 “or personnel” in the matter preceding
16 clause (i); and

17 (C) in subsection (l)(2)(B), by striking
18 “section” and inserting “paragraph”.

19 (2) In section 119(c)(2)(B) (50 U.S.C.
20 404o(c)(2)(B)), by striking “subsection (h)” and in-
21 serting “subsection (i)”.

1 **SEC. 502. TECHNICAL CLARIFICATION OF CERTAIN REF-**
2 **ERENCES TO JOINT MILITARY INTELLIGENCE**
3 **PROGRAM AND TACTICAL INTELLIGENCE**
4 **AND RELATED ACTIVITIES.**

5 Section 102A of the National Security Act of 1947
6 (50 U.S.C. 403–1) is amended—

7 (1) in subsection (c)(3)(A), by inserting “, or
8 for any successor program or programs” after “Ac-
9 tivities”; and

10 (2) in subsection (d)(1)(B), by inserting “, or
11 any successor program or programs” after “Pro-
12 gram”.

13 **SEC. 503. TECHNICAL AMENDMENTS TO THE INTEL-**
14 **LIGENCE REFORM AND TERRORISM PREVEN-**
15 **TION ACT OF 2004.**

16 (a) AMENDMENTS TO NATIONAL SECURITY INTEL-
17 LIGENCE REFORM ACT OF 2004.—The National Security
18 Intelligence Reform Act of 2004 (title I of Public Law
19 108–458) is amended as follows:

20 (1) In section 1016(e)(10)(B) (6 U.S.C.
21 458(e)(10)(B)), by striking “Attorney General” the
22 second place it appears and inserting “Department
23 of Justice”.

24 (2) In section 1061(d)(4)(A) (5 U.S.C. 601
25 note), by striking “National Intelligence Director”
26 and inserting “Director of National Intelligence”.

1 (3) In section 1071(e), by striking “(1)”.

2 (4) In section 1072(b), by inserting “AGENCY”
3 after “INTELLIGENCE”.

4 (b) OTHER AMENDMENTS TO INTELLIGENCE RE-
5 FORM AND TERRORISM PREVENTION ACT OF 2004.—The
6 Intelligence Reform and Terrorism Prevention Act of
7 2004 (Public Law 108–458) is amended as follows:

8 (1) in section 2001 (28 U.S.C. 532 note)—

9 (A) in subsection (c)(1), by inserting “of”
10 before “an institutional culture”;

11 (B) in subsection (e)(2), by striking “the
12 National Intelligence Director in a manner con-
13 sistent with section 112(e)” and inserting “the
14 Director of National Intelligence in a manner
15 consistent with applicable law”; and

16 (C) in subsection (f), by striking “shall,”
17 in the matter preceding paragraph (1) and in-
18 serting “shall”.

19 (2) In section 2006 (28 U.S.C. 509 note)—

20 (A) in paragraph (2), by striking “the
21 Federal” and inserting “Federal”; and

22 (B) in paragraph (3), by striking “the spe-
23 cific” and inserting “specific”.

1 **SEC. 504. TECHNICAL AMENDMENT TO THE CENTRAL IN-**
2 **TELLIGENCE AGENCY ACT OF 1949.**

3 Section 5(a)(1) of the Central Intelligence Agency
4 Act of 1949 (50 U.S.C. 403f(a)(1)) is amended by striking
5 “authorized under paragraphs (2) and (3) of section
6 102(a), subsections (c)(7) and (d) of section 103, sub-
7 sections (a) and (g) of section 104, and section 303 of
8 the National Security Act of 1947 (50 U.S.C. 403(a)(2),
9 (3), 403–3(c)(7), (d), 403–4(a), (g), and 405)” and insert-
10 ing “authorized under subsections (d), (e), (f), and (g) of
11 section 104A of the National Security Act of 1947 (50
12 U.S.C. 403–4a).”.

13 **SEC. 505. TECHNICAL AMENDMENTS RELATING TO THE**
14 **MULTIYEAR NATIONAL INTELLIGENCE PRO-**
15 **GRAM.**

16 (a) IN GENERAL.—Subsection (a) of section 1403 of
17 the National Defense Authorization Act for Fiscal Year
18 1991 (50 U.S.C. 404b) is amended—

19 (1) in the subsection caption, by striking “FOR-
20 EIGN”; and

21 (2) by striking “foreign” each place it appears.

22 (b) RESPONSIBILITY OF DNI.—That section is fur-
23 ther amended—

24 (1) in subsections (a) and (c), by striking “Di-
25 rector of Central Intelligence” and inserting “Direc-
26 tor of National Intelligence”; and

1 (2) in subsection (b), by inserting “of National
2 Intelligence” after “Director”.

3 (c) CONFORMING AMENDMENT.—The heading of
4 that section is amended to read as follows:

5 **“SEC. 1403. MULTIYEAR NATIONAL INTELLIGENCE PRO-**
6 **GRAM.”.**

7 **SEC. 506. TECHNICAL AMENDMENTS TO THE EXECUTIVE**
8 **SCHEDULE.**

9 (a) EXECUTIVE SCHEDULE LEVEL II.—Section 5313
10 of title 5, United States Code, is amended by striking the
11 item relating to the Director of Central Intelligence and
12 inserting the following new item:

13 “Director of the Central Intelligence Agency.”.

14 (b) EXECUTIVE SCHEDULE LEVEL III.—Section
15 5314 of title 5, United States Code, is amended by strik-
16 ing the item relating to the Deputy Directors of Central
17 Intelligence.

18 (c) EXECUTIVE SCHEDULE LEVEL IV.—Section
19 5315 of title 5, United States Code, is amended by strik-
20 ing the item relating to the General Counsel of the Office
21 of the National Intelligence Director and inserting the fol-
22 lowing new item:

23 “General Counsel of the Office of the Director
24 of National Intelligence.”.

1 **SEC. 507. TECHNICAL AMENDMENTS RELATING TO REDES-**
 2 **IGNATION OF THE NATIONAL IMAGERY AND**
 3 **MAPPING AGENCY AS THE NATIONAL**
 4 **GEOSPATIAL-INTELLIGENCE AGENCY.**

5 (a) TITLE 5, UNITED STATES CODE.—(1) Title 5,
 6 United States Code, is amended by striking “National Im-
 7 agery and Mapping Agency” each place it appears in a
 8 provision as follows and inserting “National Geospatial-
 9 Intelligence Agency”:

10 (A) Section 2302(a)(2)(C)(ii).

11 (B) Section 3132(a)(1)(B).

12 (C) Section 4301(1) (in clause (ii)).

13 (D) Section 4701(a)(1)(B).

14 (E) Section 5102(a)(1) (in clause (xi)).

15 (F) Section 5342(a)(1) (in clause (L)).

16 (G) Section 6339(a)(1)(E).

17 (H) Section 7323(b)(2)(B)(i)((XIII).

18 (2) Section 6339(a)(2)(E) of such title is amended
 19 by striking “National Imagery and Mapping Agency, the
 20 Director of the National Imagery and Mapping Agency”
 21 and inserting “National Geospatial-Intelligence Agency,
 22 the Director of the National Geospatial-Intelligence Agen-
 23 cy”.

24 (b) TITLE 44, UNITED STATES CODE.—(1)(A) Sec-
 25 tion 1336 of title 44, United States Code, is amended by
 26 striking “National Imagery and Mapping Agency” both

1 places it appears and inserting “National Geospatial-Intel-
2 ligence Agency”.

3 (B) The heading of such section is amended to read
4 as follows:

5 **“§ 1336. National Geospatial-Intelligence Agency: spe-
6 cial publications”.**

7 (2) The table of sections at the beginning of chapter
8 13 of such title is amended by striking the item relating
9 to section 1336 and inserting the following new item:

“1336. National Geospatial-Intelligence Agency: special publications.”.

10 (c) HOMELAND SECURITY ACT OF 2002.—Section
11 201(f)(2)(E) of the Homeland Security Act of 2002 (6
12 U.S.C. 121(f)(2)(E)) is amended by striking “National
13 Imagery and Mapping Agency” and inserting “National
14 Geospatial-Intelligence Agency”.

15 (d) INSPECTOR GENERAL ACT OF 1978.—Section 8H
16 of the Inspector General Act of 1978 (5 U.S.C. App.) is
17 amended by striking “National Imagery and Mapping
18 Agency” each place it appears and inserting “National
19 Geospatial-Intelligence Agency”.

20 (e) ETHICS IN GOVERNMENT ACT OF 1978.—Section
21 105(a) of the Ethics in Government Act of 1978 (5 U.S.C.
22 App.) is amended by striking “National Imagery and Map-
23 ping Agency” and inserting “National Geospatial-Intel-
24 ligence Agency”.

1 (f) OTHER ACTS.—(1) Section 7(b)(2)(A)(i) of the
2 Employee Polygraph Protection Act of 1988 (29 U.S.C.
3 2006(b)(2)(A)(i)) is amended by striking “National Im-
4 agery and Mapping Agency” and inserting “National
5 Geospatial-Intelligence Agency”.

6 (2) Section 207(a)(2)(B) of the Legislative Branch
7 Appropriations Act, 1993 (44 U.S.C. 501 note) is amend-
8 ed by striking “National Imagery and Mapping Agency”
9 and inserting “National Geospatial-Intelligence Agency”.

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[Report No. 109-142]
[Report No. 109-173]

A BILL

To authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

OCTOBER 27, 2005
Reported with amendments