

114TH CONGRESS  
2D SESSION

# H. R. 4922

To amend section 552 of title 5, United States Code, to apply the requirements of the Freedom of Information Act to the National Security Council, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2016

Mrs. WALORSKI introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend section 552 of title 5, United States Code, to apply the requirements of the Freedom of Information Act to the National Security Council, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Transparency in Na-  
5       tional Security Act of 2016”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) The Obama Administration has frequently  
2           stated their commitment to transparency and pub-  
3           lished a Transparency and Open Government memo  
4           stating “Transparency promotes accountability and  
5           provides information for citizens about what their  
6           Government is doing.”.

7           (2) The National Security Council (NSC) is  
8           mandated by statute to advise the President with re-  
9           spect to the integration of domestic, foreign, and  
10          military policies relating to the national security and  
11          to perform such other functions as the President  
12          may direct.

13          (3) The NSC maintained an active Freedom of  
14          Information Act (FOIA) program and responded to  
15          requests under Presidents Ford, Carter, Reagan,  
16          and George H.W. Bush.

17          (4) The 1996 case that eliminated the FOIA re-  
18          quirement for the NSC, *Armstrong vs Executive Of-*  
19          *fice of the President*, concluded that the NSC does  
20          not exercise sufficiently independent authority.

21          (5) In the 20 years since the *Armstrong* case,  
22          former Secretaries and Cabinet officials, including  
23          Leon Panetta and Robert Gates, have spoken out  
24          concerning the increasing centralization of power at  
25          the White House, and the NSC in particular.

1           (6) The Obama Administration issued Presi-  
2           dential Policy Directive 1 on February 13, 2009,  
3           which established the roles and responsibilities for  
4           the NSC and established the National Security Advi-  
5           sor as the principal advisor to the President.

6           (7) The NSC has grown 20 times in size since  
7           the 1960s and now has approximately 400 employ-  
8           ees.

9           (8) The NSC's growth has accelerated in the  
10          recent administrations, the NSC doubled in size to  
11          approximately 100 under President Clinton, the  
12          NSC doubled in size again to approximately 200  
13          under President George W. Bush, and has doubled  
14          again under President Obama to nearly 400 employ-  
15          ees.

16          (9) Successive administrations have shifted the  
17          NSC's role beyond coordinating and advising as was  
18          intended by the National Security Act of 1947 and  
19          now use the NSC as the final approval for military  
20          operations as well.

21          (10) General Norton Schwartz, former Chief of  
22          Staff of the Air Force stated, "The NSC should not  
23          be activists. They should have a limited, if any role,  
24          in execution."

1           (11) Brent Scowcroft, National Security Advi-  
2           sor to Presidents Ford and George H.W. Bush stat-  
3           ed, “The basic rule is that you shouldn’t have so  
4           many people that you can duplicate the work of the  
5           departments.”.

6           (12) The Presidential Records Act has been ap-  
7           plied to the NSC, given the NSC’s growing auton-  
8           omy and level of responsibilities, the NSC should in-  
9           stead follow the disclosure requirements of the FOIA  
10          and be obligated to preserve its records in accord-  
11          ance with the Federal Records Act.

12 **SEC. 3. APPLICATION OF THE FREEDOM OF INFORMATION**

13 **ACT TO THE NATIONAL SECURITY COUNCIL.**

14          Section 552(f)(1) of title 5, United States Code (com-  
15          monly referred to as the Freedom of Information Act),  
16          is amended by inserting “and the National Security Coun-  
17          cil” after the “Executive Office of the President”.

18 **SEC. 4. APPLICATION.**

19          The amendment made by section 3 shall apply with  
20          respect to any record created by the National Security  
21          Council before, on, or after the date of the enactment of  
22          this Act.

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