

103RD CONGRESS
2^D SESSION

H. R. 4299

AMENDMENT

In the Senate of the United States,

August 12 (legislative day, August 11), 1994.

Resolved, That the bill from the House of Representatives (H.R. 4299) entitled “An Act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Intelligence Authoriza-*
3 *tion Act for Fiscal Year 1995”.*

4 ***TITLE I—INTELLIGENCE***

5 ***ACTIVITIES***

6 ***SEC. 101. AUTHORIZATION OF APPROPRIATIONS.***

7 *Funds are hereby authorized to be appropriated for fis-*
8 *cal year 1995 for the conduct of the intelligence activities*
9 *of the following elements of the United States Government:*

1 (1) *The Central Intelligence Agency.*

2 (2) *The Department of Defense.*

3 (3) *The Defense Intelligence Agency.*

4 (4) *The National Security Agency.*

5 (5) *The National Reconnaissance Office.*

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

9 (7) *The Department of State.*

10 (8) *The Department of the Treasury.*

11 (9) *The Department of Energy.*

12 (10) *The Federal Bureau of Investigation.*

13 (11) *The Central Imagery Office.*

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

15 (a) *SPECIFICATIONS OF AMOUNTS AND PERSONNEL*
16 *CEILINGS.*—*The amounts authorized to be appropriated*
17 *under section 101, and the authorized personnel ceilings as*
18 *of September 30, 1995, for the conduct of intelligence activi-*
19 *ties of the elements listed in such section, are those specified*
20 *in the classified Schedule of Authorizations prepared by the*
21 *committee of conference to accompany S. 2082 of the One*
22 *Hundred Third Congress.*

23 (b) *AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-*
24 *THORIZATIONS.*—*The Schedule of Authorizations described*
25 *in subsection (a) shall be made available to the Committees*

1 *on Appropriations of the Senate and House of Representa-*
2 *tives and to the President. The President shall provide for*
3 *suitable distribution of the Schedule, or of appropriate por-*
4 *tions of the Schedule, within the executive branch of Govern-*
5 *ment.*

6 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

7 (a) *AUTHORITY FOR ADJUSTMENTS.*—*The Director of*
8 *Central Intelligence may authorize the employment of civil-*
9 *ian personnel in excess of the number of such personnel au-*
10 *thorized for employment for fiscal year 1995 under section*
11 *102 of this Act, if the Director determines that such action*
12 *is necessary to the performance of important intelligence*
13 *functions, except that such number may not, for any ele-*
14 *ment of the intelligence community, exceed 2 percent of the*
15 *number of civilian personnel authorized under such section*
16 *for such element.*

17 (b) *NOTICE TO INTELLIGENCE COMMITTEES.*—*The Di-*
18 *rector of Central Intelligence shall promptly notify the Per-*
19 *manent Select Committee on Intelligence of the House of*
20 *Representatives and the Select Committee on Intelligence of*
21 *the Senate whenever the Director exercises the authority*
22 *granted by subsection (a).*

23 (c) *INTELLIGENCE COMMUNITY DEFINED.*—*As used in*
24 *subsection (a), the term “intelligence community” has the*

1 *same meaning given to that term by section 3(4) of the Na-*
2 *tional Security Act of 1947 (50 U.S.C. 401(4)).*

3 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

4 (a) *AUTHORIZATION OF APPROPRIATIONS.—There is*
5 *authorized to be appropriated for the Community Manage-*
6 *ment Account of the Director of Central Intelligence for fis-*
7 *cal year 1995 the sum of \$106,300,000. Of the amounts*
8 *made available under this subsection, funds made available*
9 *for the Advanced Research and Development Committee and*
10 *the Environmental Task Force are authorized to remain*
11 *available until September 30, 1996.*

12 (b) *AUTHORIZED PERSONNEL LEVELS.—The Commu-*
13 *nity Management Account of the Director of Central Intel-*
14 *ligence is authorized 221 full-time personnel as of Septem-*
15 *ber 30, 1995. Such personnel of the Community Manage-*
16 *ment Account may be permanent employees of the Commu-*
17 *nity Management Account or personnel detailed from other*
18 *elements of the United States Government.*

19 (c) *REIMBURSEMENT.—During fiscal year 1995, any*
20 *officer or employee of the United States or a member of the*
21 *Armed Forces who is detailed to the Community Manage-*
22 *ment Account staff 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 1 year for the performance of temporary func-*
2 *tions as required by the Director of Central Intelligence.*

3 **TITLE II—CENTRAL INTEL-**
4 **LIGENCE AGENCY RETIRE-**
5 **MENT AND DISABILITY SYS-**
6 **TEM**

7 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

8 *There is authorized to be appropriated for the Central*
9 *Intelligence Agency Retirement and Disability Fund for fis-*
10 *cal year 1995 the sum of \$198,000,000.*

11 **TITLE III—GENERAL**
12 **PROVISIONS**

13 **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND**
14 **BENEFITS AUTHORIZED BY LAW.**

15 *In addition to amounts authorized to be appropriated*
16 *by this Act for the salary, pay, retirement, and other bene-*
17 *fits of Federal employees, there are authorized to be appro-*
18 *priated such additional or supplemental amounts as may*
19 *be necessary to cover increases in those benefits authorized*
20 *by law for fiscal year 1995.*

21 **SEC. 302. RESTRICTION ON THE CONDUCT OF INTEL-**
22 **LIGENCE ACTIVITIES.**

23 *The authorizations of appropriations contained in this*
24 *Act do not constitute authority for the conduct of any intel-*
25 *ligence activity which is not otherwise authorized by the*

1 *Constitution of the United States or by the laws of the Unit-*
2 *ed States.*

3 **SEC. 303. REPEAL OF RESTRICTION ON INTELLIGENCE CO-**
4 **OPERATION WITH SOUTH AFRICA.**

5 *Section 107 of the Intelligence Authorization Act for*
6 *Fiscal Year 1987 (Public Law 99-569) is repealed.*

7 **SEC. 304. REPORT REGARDING MANDATORY RETIREMENT**
8 **FOR EXPIRATION OF TIME IN CLASS.**

9 *(a) REPORT REQUIRED.—Not later than December 1,*
10 *1994, the Director of Central Intelligence shall submit to*
11 *the congressional defense and intelligence committees a re-*
12 *port setting forth a legislative proposal, coordinated as ap-*
13 *propriate with elements of the intelligence community,*
14 *which would provide for mandatory retirement for expira-*
15 *tion of time in class, comparable to the applicable provi-*
16 *sions of section 607 of the Foreign Service Act of 1980 (22*
17 *U.S.C. 4007), for all civilian employees of the Central Intel-*
18 *ligence Agency, the National Security Agency, the Defense*
19 *Intelligence Agency, and the intelligence elements of the*
20 *Army, Navy, Air Force, and Marine Corps. The report shall*
21 *include an assessment of the advisability and feasibility of*
22 *instituting such a mandatory retirement policy, and of al-*
23 *ternative means to achieve the objectives of a mandatory*
24 *retirement policy. The report shall also include an assess-*
25 *ment from the Secretary of Defense of the impact of a man-*

1 *datory retirement policy for intelligence community civil-*
2 *ian employees on all other Department of Defense civilian*
3 *employees.*

4 (b) *DEFINITIONS.—For purposes of this section—*

5 (1) *the term “congressional defense and intel-*
6 *ligence committees” means the Committees on Armed*
7 *Services of the Senate and House of Representatives,*
8 *the Defense Subcommittees of the Committees on Ap-*
9 *propriations of the Senate and House of Representa-*
10 *tives, the Select Committee on Intelligence of the Sen-*
11 *ate, and the Permanent Select Committee on Intel-*
12 *ligence of the House of Representatives; and*

13 (2) *the term “intelligence community” has the*
14 *same meaning given to that term in section 3(4) of*
15 *the National Security Act of 1947 (50 U.S.C. 401(4)).*

16 **TITLE IV—CENTRAL**
17 **INTELLIGENCE AGENCY**

18 **SEC. 401. AMENDMENT OF SECTION 4(a) OF THE CIA ACT OF**

19 **1949.**

20 *Section 4(a) of the Central Intelligence Agency Act of*
21 *1949 (50 U.S.C. 403e(a)) is amended in subparagraphs (A)*
22 *and (C) of paragraph (5), by striking “not the result of*
23 *vicious habits, intemperance, or misconduct on his part,”*
24 *each place it appears.*

1 **SEC. 402. GENERAL COUNSEL OF THE CENTRAL INTEL-**
 2 **LIGENCE AGENCY.**

3 (a) *POSITION ESTABLISHED.*—The Central Intel-
 4 ligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is
 5 amended by adding at the end the following new section:

6 “GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE
 7 AGENCY

8 “SEC. 20. (a) There is a General Counsel of the Central
 9 Intelligence Agency appointed from civilian life by the
 10 President, by and with the advice and consent of the Senate.

11 “(b) The General Counsel of the Central Intelligence
 12 Agency is the chief legal officer of the Central Intelligence
 13 Agency.

14 “(c) The General Counsel of the Central Intelligence
 15 Agency shall perform such functions as the Director of
 16 Central Intelligence may prescribe.”.

17 (b) *PAY FOR POSITION.*—Section 5315 of title 5, Unit-
 18 ed States Code, is amended by adding at the end the follow-
 19 ing:

20 “General Counsel of the Central Intelligence Agency.”.

21 **TITLE V—DEPARTMENT OF**
 22 **DEFENSE**

23 **SEC. 501. CENTRAL IMAGERY OFFICE.**

24 (a) *AMENDMENTS OF THE NATIONAL SECURITY ACT*
 25 *OF 1947.*—(1) Section 105(b)(2) of the National Security
 26 Act of 1947 (50 U.S.C. 403–5(b)(2)) is amended by striking

1 “a central imagery authority” and inserting in lieu thereof
2 “the Central Imagery Office”.

3 (2) Section 106(b) of such Act (50 U.S.C. 403–6(b))
4 is amended—

5 (A) in the subsection caption, by striking out
6 “CENTRAL IMAGERY AUTHORITY” and inserting in
7 lieu thereof “CENTRAL IMAGERY OFFICE”; and

8 (B) by striking out “Central Imagery Authority”
9 and inserting in lieu thereof “Central Imagery Of-
10 fice”.

11 (b) CIVILIAN PERSONNEL MANAGEMENT FOR THE
12 CENTRAL IMAGERY OFFICE.—(1) Subject to paragraph (2),
13 the Secretary of Defense may exercise the authorities set
14 forth in sections 1601 and 1604 of title 10, United States
15 Code, pertaining to civilian officers and employees in the
16 Defense Intelligence Agency, with respect to civilian officers
17 and employees of the Central Imagery Office.

18 (2)(A) Civilian personnel administrative support for
19 officers and employees of the Central Imagery Office shall
20 remain a responsibility of the Defense Intelligence Agency.

21 (B) The authority provided in section 1604(e)(1) of
22 title 10, United States Code, may, with respect to civilian
23 officers and employees of the Central Imagery Office, be del-
24 egated by the Secretary of Defense only to the Deputy Sec-
25 retary of Defense.

1 **SEC. 502. PUBLIC AVAILABILITY OF CERTAIN MAPS,**
2 **CHARTS, AND GEODETIC DATA.**

3 *Section 2796(b)(1)(C) of title 10, United States Code*
4 *is amended by inserting “jeopardize or interfere with ongo-*
5 *ing military or intelligence operations, or” after “dis-*
6 *closed,”.*

7 **SEC. 503. AUTHORITY TO ESTABLISH A NATIONAL PUBLIC**
8 **INFORMATION CENTER.**

9 *Of the funds made available to the Secretary of Defense*
10 *under this Act, the Secretary is authorized during fiscal*
11 *year 1995 to expend not more than \$3,000,000 to establish*
12 *a National Public Information Center for the purpose of—*

13 *(1) surveying, collecting, storing, distributing,*
14 *and presenting unclassified information, including*
15 *information retained by Government agencies as of*
16 *the date of enactment of this Act;*

17 *(2) providing support for training in decision-*
18 *making, and for professional education in the Depart-*
19 *ment of Defense and the intelligence community (as*
20 *defined in section 3(4) of the National Security Act*
21 *of 1947); and*

22 *(3) informing more broadly the American public.*

23 **SEC. 504. LIMITATIONS ON FUNDING OF THE NATIONAL RE-**
24 **CONNAISSANCE OFFICE.**

25 *(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD*
26 *PROCUREMENT AND CONTRACTING PROCEDURES.—Of the*

1 *funds made available by this Act for the National Recon-*
2 *naissance Office under the classified Schedule of Authoriza-*
3 *tions referred to in section 102 of this Act—*

4 (1) *\$50,000,000 out of the Miscellaneous Support*
5 *account of the Mission Support Consolidated Expend-*
6 *iture Center may not be obligated or expended until*
7 *the Director of Central Intelligence and the Secretary*
8 *of Defense have completed a review of the National*
9 *Reconnaissance Office Headquarters Building project*
10 *and the results of such review have been disclosed to*
11 *the congressional intelligence committees; and*

12 (2) *no such funds made available by this Act*
13 *may be obligated or expended for the purchase of any*
14 *real property, or to contract for any construction or*
15 *acquisition, in connection with the construction of*
16 *buildings or facilities, unless (and to the extent*
17 *that)—*

18 (A) *such purchase or contract is made or*
19 *entered into in accordance with the policies and*
20 *procedures applicable to other elements of the De-*
21 *partment of Defense; or*

22 (B) *the President determines that the na-*
23 *tional security interest of the United States re-*
24 *quires that such policies and procedures shall not*
25 *apply to a particular purchase or contract and*

1 *reports such determination in accordance with*
2 *subsection (b).*

3 **(b) WAIVER PROCEDURES.**—*Not later than 30 days*
4 *after making a determination under subsection (a)(2)(B),*
5 *the President shall report in writing the determination to*
6 *the congressional intelligence committees.*

7 **(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS**
8 **REQUIRED.**—*Except to the extent and in the amounts spe-*
9 *cifically provided in an Act authorizing appropriations*
10 *and in an appropriation Act, no funds made available*
11 *under any provision of law may be obligated or expended*
12 *for the National Reconnaissance Office Headquarters*
13 *Building project if such funds would cause the total amount*
14 *obligated or expended for such project to exceed*
15 *\$310,000,000.*

16 **(d) DEFINITIONS.**—*As used in this section:*

17 **(1) CONGRESSIONAL INTELLIGENCE COMMIT-**
18 **TEES.**—*The term “congressional intelligence commit-*
19 *tees” means the Select Committee on Intelligence of*
20 *the Senate and the Permanent Select Committee on*
21 *Intelligence of the House of Representatives.*

22 **(2) NATIONAL RECONNAISSANCE OFFICE HEAD-**
23 **QUARTERS BUILDING PROJECT.**—*The term “National*
24 *Reconnaissance Office Headquarters Building*
25 *project” means the project for the headquarters build-*

1 *ings of the National Reconnaissance Office, situated*
2 *at the so-call Westfields site, and includes all con-*
3 *struction and improvement of facilities (including ‘fit*
4 *up’) and all actions related to the acquisition of land,*
5 *communications, computers, furniture and other*
6 *building furnishings, and vehicle parking facilities.*

7 **TITLE VI—FEDERAL BUREAU OF**
8 **INVESTIGATION**

9 **SEC. 601. DISCLOSURE OF CONSUMER CREDIT REPORTS**
10 **FOR COUNTERINTELLIGENCE PURPOSES.**

11 *Section 608 of the Fair Credit Reporting Act (15*
12 *U.S.C. 1681f) is amended—*

13 *(1) by striking “Notwithstanding” and inserting*
14 *“(a) DISCLOSURE OF CERTAIN IDENTIFYING INFOR-*
15 *MATION.—Notwithstanding”;* and

16 *(2) by adding at the end the following new sub-*
17 *section:*

18 *“(b) DISCLOSURES TO THE FBI FOR COUNTERINTEL-*
19 *LIGENCE PURPOSES.—*

20 *“(1) CONSUMER REPORTS.—Notwithstanding the*
21 *provisions of section 604, a consumer reporting agen-*
22 *cy shall furnish a consumer report to the Federal Bu-*
23 *reau of Investigation when presented with a written*
24 *request for a consumer report, signed by the Director*
25 *of the Federal Bureau of Investigation, or the Direc-*

1 *tor's designee, which certifies compliance with this*
2 *subsection. The Director or the Director's designee*
3 *may make such a certification only if the Director or*
4 *the Director's designee has determined in writing*
5 *that—*

6 *“(A) such records are necessary for the con-*
7 *duct of an authorized foreign counterintelligence*
8 *investigation; and*

9 *“(B) there are specific and articulable facts*
10 *giving reason to believe that the consumer whose*
11 *consumer report is sought is a foreign power or*
12 *an agent of a foreign power, as defined in sec-*
13 *tion 101 of the Foreign Intelligence Surveillance*
14 *Act of 1978 (50 U.S.C. 1801).*

15 *“(2) IDENTIFYING INFORMATION.—Notwithstand-*
16 *ing the provisions of section 604, a consumer report-*
17 *ing agency shall furnish identifying information re-*
18 *specting a consumer, limited to name, address, former*
19 *addresses, places of employment, or former places of*
20 *employment, to the Federal Bureau of Investigation*
21 *when presented with a written request, signed by the*
22 *Director or the Director's designee, which certifies*
23 *compliance with this subsection. The Director or the*
24 *Director's designee may make such a certification*

1 *only if the Director or the Director's designee has de-*
2 *termined in writing that—*

3 “(A) *such information is necessary to the*
4 *conduct of an authorized counterintelligence in-*
5 *vestigation; and*

6 “(B) *there is information giving reason to*
7 *believe that the consumer has been, or is about*
8 *to be, in contact with a foreign power or an*
9 *agent of a foreign power, as defined in section*
10 *101 of the Foreign Intelligence Surveillance Act*
11 *of 1978 (50 U.S.C. 1801).*

12 “(3) *CONFIDENTIALITY.—No consumer reporting*
13 *agency or officer, employee, or agent of such consumer*
14 *reporting agency may disclose to any person, other*
15 *than those officers, employees, or agents of such agen-*
16 *cy necessary to fulfill the requirement to disclose in-*
17 *formation to the Federal Bureau of Investigation*
18 *under this subsection, that the Federal Bureau of In-*
19 *vestigation has sought or obtained a consumer report*
20 *or identifying information respecting any consumer*
21 *under paragraph (1) or (2), nor shall such agency, of-*
22 *ficer, employee, or agent include in any consumer re-*
23 *port any information that would indicate that the*
24 *Federal Bureau of Investigation has sought or ob-*

1 *tained such a consumer report or identifying infor-*
2 *mation.*

3 “(4) *PAYMENT OF FEES.*—*The Federal Bureau of*
4 *Investigation shall, subject to the availability of ap-*
5 *propriations, pay to the consumer reporting agency*
6 *assembling or providing credit reports or identifying*
7 *information in accordance with procedures established*
8 *under this title, a fee for reimbursement for such costs*
9 *as are reasonably necessary and which have been di-*
10 *rectly incurred in searching, reproducing, or trans-*
11 *porting books, papers, records, or other data required*
12 *or requested to be produced under this subsection.*

13 “(5) *LIMIT ON DISSEMINATION.*—*The Federal*
14 *Bureau of Investigation may not disseminate infor-*
15 *mation obtained pursuant to this subsection outside of*
16 *the Federal Bureau of Investigation, except to the De-*
17 *partment of Justice as may be necessary for the ap-*
18 *proval or conduct of a foreign counterintelligence in-*
19 *vestigation, or, where the information concerns a per-*
20 *son subject to the Uniform Code of Military Justice,*
21 *to appropriate investigative authorities within the*
22 *military department concerned as may be necessary*
23 *for the conduct of a joint foreign counterintelligence*
24 *investigation.*

1 “(6) *RULES OF CONSTRUCTION.*—Nothing in this
2 subsection shall be construed to prohibit information
3 from being furnished by the Federal Bureau of Inves-
4 tigation pursuant to a subpoena or court order, or in
5 connection with a judicial or administrative proceed-
6 ing to enforce the provisions of this Act. Nothing in
7 this subsection shall be construed to authorize or per-
8 mit the withholding or information from Congress.

9 “(7) *REPORTS TO CONGRESS.*—On a semiannual
10 basis, the Attorney General of the United States shall
11 fully inform the Permanent Select Committee on In-
12 telligence and the Committee on Banking, Finance
13 and Urban Affairs of the House of Representatives,
14 and the Select Committee on Intelligence and the
15 Committee on Banking, Housing, and Urban Affairs
16 of the Senate concerning all requests made pursuant
17 to paragraphs (1) and (2).

18 “(8) *DAMAGES.*—Any agency or department of
19 the United States obtaining or disclosing credit re-
20 ports, records, or information contained therein in
21 violation of this subsection is liable to the consumer
22 to whom such records relate in an amount equal to
23 the sum of—

24 “(A) \$100, without regard to the volume of
25 records involved;

1 “(B) any actual damages sustained by the
2 consumer as a result of the disclosure;

3 “(C) if the violation is found to have been
4 willful or intentional, such punitive damages as
5 a court may allow; and

6 “(D) in the case of any successful action to
7 enforce liability under this subsection, the costs
8 of the action, together with reasonable attorney
9 fees, as determined by the court.

10 “(9) *DISCIPLINARY ACTIONS FOR VIOLATIONS.*—
11 *If a court determines that any agency or department*
12 *of the United States has violated any provision of this*
13 *subsection and the court finds that the circumstances*
14 *surrounding the violation raise questions of whether*
15 *or not an officer or employee of the agency or depart-*
16 *ment acted willfully or intentionally with respect to*
17 *the violation, the agency or department shall prompt-*
18 *ly initiate a proceeding to determine whether or not*
19 *disciplinary action is warranted against the officer or*
20 *employee who was responsible for the violation.*

21 “(10) *GOOD-FAITH EXCEPTION.*—*Any credit re-*
22 *porting agency or agent or employee thereof making*
23 *disclosure of credit reports or identifying information*
24 *pursuant to this subsection in good-faith reliance*
25 *upon a certificate of the Federal Bureau of Investiga-*

1 *tion pursuant to provisions of this subsection shall*
2 *not be liable to any person for such disclosure under*
3 *this title, the constitution of any State, or any law*
4 *or regulation of any State or any political subdivi-*
5 *sion of any State.*

6 *“(11) LIMITATION OF REMEDIES.—The remedies*
7 *and sanctions set forth in this subsection shall be the*
8 *only judicial remedies and sanctions for violation of*
9 *this subsection.*

10 *“(12) INJUNCTIVE RELIEF.—In addition to any*
11 *other remedy contained in this subsection, injunctive*
12 *relief shall be available to require compliance with the*
13 *procedures of this subsection. In the event of any suc-*
14 *cessful action under this subsection, costs together*
15 *with reasonable attorney fees, as determined by the*
16 *court, may be recovered.”.*

17 **TITLE VII—COUNTERINTEL-**
18 **LIGENCE AND SECURITY**

19 **SEC. 701. SHORT TITLE.**

20 *This title may be cited as the “Counterintelligence and*
21 *Security Enhancements Act of 1994”.*

22 **SEC. 702. ACCESS TO CLASSIFIED INFORMATION.**

23 *(a) AMENDMENT OF THE NATIONAL SECURITY ACT OF*
24 *1947.—The National Security Act of 1947 (50 U.S.C. 401*

1 *et seq.) is amended by adding at the end the following new*
2 *title:*

3 “TITLE VIII—ACCESS TO CLASSIFIED
4 INFORMATION
5 “PROCEDURES

6 “SEC. 801. Not later than 180 days after the date of
7 enactment of this title, the President shall, by Executive
8 order or regulation, establish procedures to govern access
9 to classified information which shall be binding upon all
10 departments, agencies, and offices of the executive branch
11 of Government. Such procedures shall, at a minimum—

12 “(1) provide that, except as may be permitted by
13 the President, no employee in the executive branch of
14 Government may be given access to classified infor-
15 mation by any department, agency, or office of the ex-
16 ecutive branch of Government unless, based upon an
17 appropriate background investigation, such access is
18 determined to be clearly consistent with the national
19 security interests of the United States;

20 “(2) establish uniform minimum requirements
21 governing the scope and frequency of background in-
22 vestigations and reinvestigations for all employees in
23 the executive branch of Government who require ac-
24 cess to classified information as part of their official
25 responsibilities;

1 “(3) provide that all employees in the executive
2 branch of Government who require access to classified
3 information shall be required as a condition of such
4 access to provide written consent to the employing de-
5 partment or agency which permits access by an au-
6 thorized investigative agency to relevant financial
7 records, other financial information, consumer re-
8 ports, and travel records, as determined by the Presi-
9 dent, in accordance with section 802 of this title, dur-
10 ing the period of access to classified information and
11 for a period of five years thereafter;

12 “(4) provide that all employees in the executive
13 branch of Government who require access to particu-
14 larly sensitive classified information, as determined
15 by the President, shall be required, as a condition of
16 maintaining access to such information, to submit to
17 the employing department or agency, during the pe-
18 riod of such access, relevant information concerning
19 their financial conditions and foreign travel, as deter-
20 mined by the President, as may be necessary to en-
21 sure appropriate security; and

22 “(5) establish uniform minimum standards to
23 ensure that employees whose access to classified infor-
24 mation is being denied or terminated under this title
25 are appropriately advised of the reasons for such de-

1 *nial or termination and are provided an adequate op-*
2 *portunity to respond to all adverse information which*
3 *forms the basis for such denial or termination before*
4 *final action by the department or agency concerned,*
5 *except that, wherever such information is derived*
6 *from a classified source, appropriate measures shall*
7 *be taken to conceal the identity of such source from*
8 *the employee concerned.*

9 *“REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES*

10 *“SEC. 802. (a)(1) Any authorized investigative agency*
11 *may request from any financial agency, financial institu-*
12 *tion, or holding agency, or from any consumer credit re-*
13 *porting agency, such financial records, other financial in-*
14 *formation, and consumer reports as may be necessary in*
15 *order to conduct any authorized law enforcement investiga-*
16 *tion, counterintelligence inquiry, or security determination.*
17 *Any authorized investigative agency may also request*
18 *records maintained by any commercial entity within the*
19 *United States pertaining to travel by a person outside the*
20 *United States.*

21 *“(2) Requests may be made under this section where—*

22 *“(A) the records sought pertain to a person who*
23 *is or was an employee required by the President in*
24 *an Executive order or regulation, as a condition of*
25 *access to classified information, to provide consent,*
26 *during a background investigation and for such time*

1 *as access to the information is maintained, and for*
2 *a period of not more than 5 years thereafter, permit-*
3 *ting access to financial records, other financial infor-*
4 *mation, consumer reports, and travel records; and*

5 *“(B)(i) there is information or allegations indi-*
6 *cating that the person is, or may be, disclosing classi-*
7 *fied information in an unauthorized manner to a for-*
8 *eign power or agent of a foreign power;*

9 *“(ii) information comes to the attention of the*
10 *employing agency indicating the person has incurred*
11 *excessive indebtedness or has acquired a level of afflu-*
12 *ence which cannot be explained by other information*
13 *known to the agency; or*

14 *“(iii) circumstances indicate the person had the*
15 *capability and opportunity to disclose classified in-*
16 *formation which is known to have been lost or com-*
17 *promised to a foreign power or an agent of a foreign*
18 *power.*

19 *“(3) Each such request—*

20 *“(A) shall be accompanied by a written certifi-*
21 *cation signed by the department or agency head or*
22 *deputy department or agency head concerned, or by*
23 *a senior official designated for this purpose by the de-*
24 *partment or agency head concerned (whose rank shall*

1 *be no lower than Assistant Secretary or Assistant Di-*
2 *rector), and shall certify that—*

3 *“(i) the person concerned is or was an em-*
4 *ployee within the meaning of paragraph (2)(A);*

5 *“(ii) the request is being made pursuant to*
6 *an authorized inquiry or investigation and is*
7 *authorized under this section; and*

8 *“(iii) the records or information to be re-*
9 *viewed are records or information which the em-*
10 *ployee has previously agreed to make available to*
11 *the authorized investigative agency for review;*

12 *“(B) shall contain a copy of the agreement re-*
13 *ferred to in subparagraph (A)(iii);*

14 *“(C) shall identify specifically or by category the*
15 *records or information to be reviewed; and*

16 *“(D) shall inform the recipient of the request of*
17 *the prohibition described in subsection (b).*

18 *“(b) Notwithstanding any other provision of law, no*
19 *governmental or private entity, or officer, employee, or*
20 *agent of such entity, may disclose to any person, other than*
21 *those officers, employees, or agents of such entity necessary*
22 *to satisfy a request made under this section, that such entity*
23 *has received or satisfied a request made by an authorized*
24 *investigative agency under this section.*

1 “(c)(1) Notwithstanding any other provision of law
2 (other than section 6103 of the Internal Revenue Code of
3 1986), an entity receiving a request for records or informa-
4 tion under subsection (a) shall, if the request satisfies the
5 requirements of this section, make available such records or
6 information within 30 days for inspection or copying, as
7 may be appropriate, by the agency requesting such records
8 or information.

9 “(2) Any entity (including any officer, employee, or
10 agent thereof) that discloses records or information for in-
11 spection or copying pursuant to this section in good faith
12 reliance upon the certifications made by an agency pursu-
13 ant to this section shall not be liable for any such disclosure
14 to any person under this title, the constitution of any State,
15 or any law or regulation of any State or any political sub-
16 division of any State.

17 “(d) Any agency requesting records or information
18 under this section may, subject to the availability of appro-
19 priations, reimburse a private entity for any cost reason-
20 ably incurred by such entity in responding to such request,
21 including the cost of identifying, reproducing, or transport-
22 ing records or other data.

23 “(e) An agency receiving records or information pur-
24 suant to a request under this section may disseminate the

1 *tigations of persons who are proposed for access to*
2 *classified information to ascertain whether such per-*
3 *sons satisfy the criteria for obtaining and retaining*
4 *access to such information;*

5 *“(2) the term ‘classified information’ means any*
6 *information that has been determined pursuant to*
7 *Executive Order No. 12356 of April 2, 1982, or suc-*
8 *cessive orders, or the Atomic Energy Act of 1954, to*
9 *require protection against unauthorized disclosure*
10 *and that is so designated;*

11 *“(3) the term ‘consumer credit reporting agency’*
12 *has the meaning given such term in section 603 of the*
13 *Consumer Credit Protection Act (15 U.S.C. 1681a);*

14 *“(4) the term ‘employee’ includes any person*
15 *who receives a salary or compensation of any kind*
16 *from the United States Government, is a contractor*
17 *of the United States Government or an employee*
18 *thereof, is an unpaid consultant of the United States*
19 *Government, or otherwise acts for or on behalf of the*
20 *United States Government;*

21 *“(5) the terms ‘financial agency’ and ‘financial*
22 *institution’ have the meanings given to such terms in*
23 *section 5312(a) of title 31, United States Code, and*
24 *the term ‘holding agency’ has the meaning given to*

1 *such term in section 1101(6) of the Right to Finan-*
2 *cial Privacy Act of 1978 (12 U.S.C. 3401);*

3 *“(6) the terms ‘foreign power’ and ‘agent of a*
4 *foreign power’ have the same meanings as set forth in*
5 *sections 101 (a) and (b), respectively, of the Foreign*
6 *Intelligence Surveillance Act of 1978 (50 U.S.C.*
7 *1801); and*

8 *“(7) the term ‘State’ means each of the several*
9 *States of the United States, the District of Columbia,*
10 *the Commonwealth of Puerto Rico, the Commonwealth*
11 *of the Northern Mariana Islands, the United States*
12 *Virgin Islands, Guam, American Samoa, the Repub-*
13 *lic of the Marshall Islands, the Federated States of*
14 *Micronesia, and the Republic of Palau (until such*
15 *time as the Compact of Free Association is ratified),*
16 *and any other possession of the United States.”.*

17 *(b) CLERICAL AMENDMENT.—The table of contents of*
18 *the National Security Act of 1947 is amended by adding*
19 *at the end the following:*

“TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

“Sec. 801. Procedures.

“Sec. 802. Requests by authorized investigative agencies.

“Sec. 803. Exceptions.

“Sec. 804. Definitions.”.

20 *(c) EFFECTIVE DATE.—The amendments made by sub-*
21 *sections (a) and (b) shall take effect 180 days after the date*
22 *of enactment of this Act.*

1 **SEC. 703. COORDINATION OF COUNTERINTELLIGENCE AC-**
2 **TIVITIES.**

3 (a) *ESTABLISHMENT OF COUNTERINTELLIGENCE POL-*
4 *ICY BOARD.*—(1) *There is established within the executive*
5 *branch of Government a National Counterintelligence Pol-*
6 *icy Board (in this section referred to as the “Board”). The*
7 *Board shall report to the President through the National*
8 *Security Council.*

9 (2) *The Board shall consist of the following individ-*
10 *uals:*

11 (A) *The Attorney General, who shall serve as*
12 *Chair.*

13 (B) *The Secretary of Defense.*

14 (C) *The Director of Central Intelligence.*

15 (D) *The Director of the Federal Bureau of Inves-*
16 *tigation.*

17 (E) *The Assistant to the President for National*
18 *Security Affairs.*

19 (b) *FUNCTION OF THE BOARD.*—*The Board shall serve*
20 *as the principal mechanism for—*

21 (1) *developing policies and procedures for the ap-*
22 *proval of the President to govern the conduct of coun-*
23 *terintelligence activities; and*

24 (2) *resolving conflicts, as directed by the Presi-*
25 *dent, which may arise between elements of the Gov-*
26 *ernment which carry out such activities.*

1 (c) *COORDINATION OF COUNTERINTELLIGENCE MAT-*
2 *TERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—*

3 *(1) Except as provided in paragraph (3) below, the head*
4 *of each department or agency within the executive branch*
5 *shall ensure that—*

6 (A) *the Federal Bureau of Investigation is ad-*
7 *vised immediately of any information, regardless of*
8 *its source, which indicates that classified information*
9 *is being, or may have been, deliberately disclosed in*
10 *an unauthorized manner to a foreign power or an*
11 *agent of a foreign power;*

12 (B) *following a report made pursuant to sub-*
13 *paragraph (A), the Federal Bureau of Investigation is*
14 *consulted with respect to all subsequent actions which*
15 *may be undertaken by the department or agency con-*
16 *cerned to determine the source of such loss or com-*
17 *promise; and*

18 (C) *where, after appropriate consultation with*
19 *the department or agency concerned, the Federal Bu-*
20 *reau of Investigation undertakes investigative activi-*
21 *ties to determine the source of the loss or compromise,*
22 *the FBI is given complete and timely access to its em-*
23 *ployees and records for purposes of such investigative*
24 *activities.*

1 (2) *Except as provided in paragraph (3) below, the*
2 *Director of the Federal Bureau of Investigation shall ensure*
3 *that counterintelligence information obtained by the Fed-*
4 *eral Bureau of Investigation pertaining to the personnel,*
5 *operations, or information of departments or agencies of the*
6 *executive branch, is provided through appropriate channels*
7 *to the department or agency concerned, and that such de-*
8 *partments or agencies are consulted in advance with respect*
9 *to any action taken by the Federal Bureau of Investigation*
10 *involving the personnel, operations, or information of such*
11 *department or agency after a report is provided pursuant*
12 *to subparagraph (1)(A).*

13 (3) *Where essential to meet extraordinary cir-*
14 *cumstances affecting vital national security interests of the*
15 *United States, the President may on a case-by-case basis*
16 *waive the requirements of paragraphs (1) or (2), above, as*
17 *they apply to the head of a particular department or agen-*
18 *cy, or the Director of the Federal Bureau of Investigation.*
19 *Such waiver shall be in writing and shall fully state the*
20 *justification for such waiver. Within thirty days of issuing*
21 *such waiver, the President shall notify the Select Committee*
22 *on Intelligence of the Senate and the Permanent Select*
23 *Committee on Intelligence of the House of Representatives*
24 *that such waiver has been issued, and at that time or as*
25 *soon as national security considerations permit, provide*

1 *these committees with a complete explanation of the cir-*
2 *cumstances which necessitated such waiver.*

3 (4) *The Director of the Federal Bureau of Investigation*
4 *shall, in consultation with the Director of Central Intel-*
5 *ligence and the Secretary of Defense, report annually, be-*
6 *ginning on February 1, 1995, and continuing each year*
7 *thereafter, to the Select Committee on Intelligence of the*
8 *Senate and to the Permanent Select Committee on Intel-*
9 *ligence of the House of Representatives with respect to com-*
10 *pliance with paragraphs (1) and (2) during the previous*
11 *calendar year.*

12 (5) *Nothing in this section may be construed to alter*
13 *the existing jurisdictional arrangements between the Fed-*
14 *eral Bureau of Investigation and the Department of Defense*
15 *with respect to investigations of persons subject to the Uni-*
16 *form Code of Military Justice, nor to impose additional re-*
17 *porting requirements upon the Department of Defense with*
18 *respect to such investigations beyond those required by ex-*
19 *isting law and executive branch policy.*

20 (6) *As used in this section, the terms “foreign power”*
21 *and “agent of a foreign power” have the same meanings*
22 *as set forth in subsections 101 (a) and (b), respectively, of*
23 *the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.*
24 *1801).*

1 **SEC. 704. DISCLOSURE OF CONSUMER CREDIT REPORTS**
2 **FOR COUNTERINTELLIGENCE PURPOSES.**

3 *Section 608 of the Fair Credit Reporting Act (15*
4 *U.S.C. 1681f) is amended—*

5 *(1) by striking “Notwithstanding” and inserting*
6 *“(a) DISCLOSURE OF CERTAIN IDENTIFYING INFOR-*
7 *MATION.—Notwithstanding”;* and

8 *(2) by adding at the end the following new sub-*
9 *section:*

10 *“(b) DISCLOSURES TO THE FBI FOR COUNTERINTEL-*
11 *LIGENCE PURPOSES.—*

12 *“(1) CONSUMER REPORTS.—Notwithstanding the*
13 *provisions of section 604, a consumer reporting agen-*
14 *cy shall furnish a consumer report to the Federal Bu-*
15 *reau of Investigation when presented with a written*
16 *request for a consumer report, signed by the Director*
17 *or Deputy Director of the Federal Bureau of Inves-*
18 *tigation who certifies compliance with this subsection.*
19 *The Director or Deputy Director may make such a*
20 *certification only if he has determined in writing*
21 *that—*

22 *“(A) such records are necessary for the con-*
23 *duct of an authorized foreign counterintelligence*
24 *investigation; and*

25 *“(B) there are specific and articulable facts*
26 *giving reason to believe that the consumer whose*

1 *consumer report is sought is a foreign power or*
2 *an agent of a foreign power, as defined in sec-*
3 *tion 101 of the Foreign Intelligence Surveillance*
4 *Act of 1978 (50 U.S.C. 1801).*

5 “(2) *IDENTIFYING INFORMATION.*—*Notwithstand-*
6 *ing the provisions of section 604, a consumer report-*
7 *ing agency shall furnish identifying information re-*
8 *specting a consumer, limited to name, address, former*
9 *addresses, places of employment, or former places of*
10 *employment, to the Federal Bureau of Investigation*
11 *when presented with a written request, signed by the*
12 *Director or Deputy Director, which certifies compli-*
13 *ance with this subsection. The Director or Deputy Di-*
14 *rector may make such certification only if the Direc-*
15 *tor or Deputy Director has determined in writing*
16 *that—*

17 “(A) *such information is necessary to the*
18 *conduct of an authorized foreign counterintel-*
19 *ligence investigation; and*

20 “(B) *there is information giving reason to*
21 *believe that the consumer has been, or is about*
22 *to be, in contact with a foreign power or an*
23 *agent of a foreign power, as so defined.*

24 “(3) *CONFIDENTIALITY.*—*No consumer reporting*
25 *agency or officer, employee, or agent of such consumer*

1 *reporting agency may disclose to any person, other*
2 *than those officers, employees, or agents of such agen-*
3 *cy necessary to fulfill the requirement to disclose in-*
4 *formation to the Federal Bureau of Investigation*
5 *under this subsection, that the Federal Bureau of In-*
6 *vestigation has sought or obtained a consumer report*
7 *or identifying information respecting any consumer*
8 *under paragraph (1) or (2), nor shall such agency, of-*
9 *ficer, employee, or agent include in any consumer re-*
10 *port any information that would indicate that the*
11 *Federal Bureau of Investigation has sought or ob-*
12 *tained such a consumer report or identifying infor-*
13 *mation.*

14 “(4) *PAYMENT OF FEES.*—*The Federal Bureau of*
15 *Investigation may, subject to the availability of ap-*
16 *propriations, pay to the consumer reporting agency*
17 *assembling or providing credit reports or identifying*
18 *information in accordance with this title, a fee for re-*
19 *imbursement for such costs as are reasonably nec-*
20 *essary and which have been directly incurred in*
21 *searching, reproducing, or transporting books, papers,*
22 *records, or other data required or requested to be pro-*
23 *duced under this subsection.*

24 “(5) *LIMIT ON DISSEMINATION.*—*The Federal*
25 *Bureau of Investigation may not disseminate infor-*

1 *mation obtained pursuant to this subsection outside of*
2 *the Federal Bureau of Investigation, except to the De-*
3 *partment of Justice or as may be necessary for the*
4 *conduct of a foreign counterintelligence investigation.*

5 *“(6) RULES OF CONSTRUCTION.—Nothing in this*
6 *subsection shall be construed to prohibit information*
7 *from being furnished by the Federal Bureau of Inves-*
8 *tigation pursuant to a subpoena or court order, or in*
9 *connection with a judicial or administrative proceed-*
10 *ing to enforce the provisions of this Act. Nothing in*
11 *this subsection shall be construed to authorize or per-*
12 *mit the withholding of information from Congress.*

13 *“(7) REPORTS TO CONGRESS.—On an annual*
14 *basis, the Attorney General of the United States shall*
15 *fully inform the Permanent Select Committee on In-*
16 *telligence of the House of Representatives and the Se-*
17 *lect Committee on Intelligence of the Senate concern-*
18 *ing all requests made pursuant to paragraphs (1) and*
19 *(2).*

20 *“(8) DAMAGES.—Any agency or department of*
21 *the United States obtaining or disclosing credit re-*
22 *ports, records, or information contained therein in*
23 *violation of this subsection is liable to the consumer*
24 *to whom such records relate in an amount equal to*
25 *the sum of—*

1 “(A) \$100, without regard to the volume of
2 records involved;

3 “(B) any actual damages sustained by the
4 consumer as a result of the disclosure;

5 “(C) if the violation is found to have been
6 willful or intentional, such punitive damages as
7 a court may allow; and

8 “(D) in the case of any successful action to
9 enforce liability under this subsection, the costs
10 of the action, together with reasonable attorney’s
11 fees, as determined by the court.

12 “(9) *GOOD FAITH EXCEPTION.*—Any credit re-
13 porting agency or agent or employee thereof making
14 disclosure of credit reports or identifying information
15 pursuant to this subsection in good faith reliance
16 upon a certificate of the Federal Bureau of Investiga-
17 tion pursuant to this subsection shall not be liable to
18 any person for such disclosure under this title, the
19 constitution of any State, or any law or regulation
20 of any State or any political subdivision of any
21 State. As used in this subsection, the term ‘State’
22 means any State of the United States, the District of
23 Columbia, the Commonwealth of Puerto Rico, the
24 Trust Territory of the Pacific Islands, and any terri-
25 tory or possession of the United States.

1 “(2) leading to the arrest or conviction, in any
2 country, of any individual or individuals for conspir-
3 ing or attempting to commit an act of espionage
4 against the United States; or

5 “(3) leading to the prevention or frustration of
6 an act of espionage against the United States.”.

7 (b) *DEFINITIONS.*—Section 3077 of such title is
8 amended by adding at the end the following new paragraph:

9 “(8) ‘act of espionage’ means an activity that is
10 a violation of—

11 “(A) section 793, 794, or 798 of title 18,
12 United States Code; or

13 “(B) section 783(b) of title 50, United
14 States Code.”.

15 (c) *CLERICAL AMENDMENTS.*—The items relating to
16 chapter 24 in the table of chapters at the beginning of such
17 title, and in the table of chapters at the beginning of part
18 II of such title, are each amended by adding at the end
19 the following: “and espionage.”.

20 **SEC. 706. ESPIONAGE NOT COMMITTED IN ANY DISTRICT.**

21 (a) *IN GENERAL.*—Chapter 211 of title 18, United
22 States Code, is amended by inserting after section 3238 the
23 following new section:

1 **“§ 3239. Espionage and related offenses not committed**
2 **in any district**

3 *“The trial for any offense involving a violation of—*
4 *“(1) section 793, 794, 798, 952, or 1030(a)(1) of*
5 *this title,*
6 *“(2) section 601 of the National Security Act of*
7 *1947 (50 U.S.C. 421), or*
8 *“(3) subsection (b) or (c) of section 4 of the Sub-*
9 *versive Activities Control Act of 1950 (50 U.S.C. 783*
10 *(b) or (c)), begun or committed upon the high seas or*
11 *elsewhere out of the jurisdiction of any particular*
12 *State or district,*
13 *may be in the District of Columbia or in any other district*
14 *authorized by law.”.*

15 *(b) CLERICAL AMENDMENT.—The table of sections at*
16 *the beginning of chapter 211 of such title is amended by*
17 *inserting after the item relating to section 3238 the follow-*
18 *ing:*

“3239. Espionage and related offenses not committed in any district.”.

19 **SEC. 707. CRIMINAL FORFEITURE FOR VIOLATION OF CER-**
20 **TAIN ESPIONAGE LAWS.**

21 *(a) IN GENERAL.—Section 798 of title 18, United*
22 *States Code, is amended by adding at the end the following*
23 *new subsections:*

1 “(d)(1) Any person convicted of a violation of this sec-
2 tion shall forfeit to the United States irrespective of any
3 provision of State law—

4 “(A) any property constituting, or derived from,
5 any proceeds the person obtained, directly or indi-
6 rectly, as the result of such violation; and

7 “(B) any of the person’s property used, or in-
8 tended to be used, in any manner or part, to commit,
9 or to facilitate the commission of, such violation.

10 “(2) The court, in imposing sentence on a defendant
11 for a conviction of a violation of this section, shall order
12 that the defendant forfeit to the United States all property
13 described in paragraph (1).

14 “(3) Except as provided in paragraph (4), the provi-
15 sions of subsections (b), (c), and (e) through (p) of section
16 413 of the Comprehensive Drug Abuse Prevention and Con-
17 trol Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall
18 apply to—

19 “(A) property subject to forfeiture under this
20 subsection;

21 “(B) any seizure or disposition of such property;
22 and

23 “(C) any administrative or judicial proceeding
24 in relation to such property if not inconsistent with
25 this subsection.

1 “(4) Notwithstanding section 524(c) of title 28, there
2 shall be deposited in the Crime Victims Fund established
3 under section 1402 of the Victims of Crime Act of 1984 (42
4 U.S.C. 10601) all amounts from the forfeiture of property
5 under this subsection remaining after the payment of ex-
6 penses for forfeiture and sale authorized by law.

7 “(e) As used in subsection (d) of this section, the term
8 ‘State’ means each of the several States of the United States,
9 the District of Columbia, the Commonwealth of Puerto Rico,
10 the Commonwealth of the Northern Mariana Islands, the
11 United States Virgin Islands, Guam, American Samoa, the
12 Republic of the Marshall Islands, the Federated States of
13 Micronesia, and the Republic of Palau (until such time as
14 the Compact of Free Association is ratified), and any other
15 possession of the United States.”.

16 (b) AMENDMENTS FOR CONSISTENCY IN APPLICATION
17 OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3)
18 of such title is amended in the matter above subparagraph
19 (A) by striking out “(o)” each place it appears and insert-
20 ing in lieu thereof “(p)”.

21 (2) Section 794(d)(3) of such title is amended in the
22 matter above subparagraph (A) by striking out “(o)” each
23 place it appears and inserting in lieu thereof “(p)”.

24 (c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Section
25 4 of the Subversive Activities Control Act of 1950 (50

1 *U.S.C. 783) is amended by adding at the end the following*
2 *new subsection:*

3 “(g)(1) *Any person convicted of a violation of this sec-*
4 *tion shall forfeit to the United States irrespective of any*
5 *provision of State law—*

6 “(A) *any property constituting, or derived from,*
7 *any proceeds the person obtained, directly or indi-*
8 *rectly, as the result of such violation; and*

9 “(B) *any of the person’s property used, or in-*
10 *tended to be used, in any manner or part, to commit,*
11 *or to facilitate the commission of, such violation.*

12 “(2) *The court, in imposing sentence on a defendant*
13 *for a conviction of a violation of this section, shall order*
14 *that the defendant forfeit to the United States all property*
15 *described in paragraph (1).*

16 “(3) *Except as provided in paragraph (4), the provi-*
17 *sions of subsections (b), (c), and (e) through (p) of section*
18 *413 of the Comprehensive Drug Abuse Prevention and Con-*
19 *trol Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p)) shall*
20 *apply to—*

21 “(A) *property subject to forfeiture under this*
22 *subsection;*

23 “(B) *any seizure or disposition of such property;*
24 *and*

1 “(C) any administrative or judicial proceeding
2 in relation to such property, if not inconsistent with
3 this subsection.

4 “(4) Notwithstanding section 524(c) of title 28, there
5 shall be deposited in the Crime Victims Fund established
6 under section 1402 of the Victims of Crime Act of 1984 (42
7 U.S.C. 10601) all amounts from the forfeiture of property
8 under this subsection remaining after the payment of ex-
9 penses for forfeiture and sale authorized by law.”.

10 **SEC. 708. DENIAL OF ANNUITIES OR RETIRED PAY TO PER-**
11 **SONS CONVICTED OF ESPIONAGE IN FOREIGN**
12 **COURTS INVOLVING UNITED STATES INFOR-**
13 **MATION.**

14 Section 8312 of title 5, United States Code, is amended
15 by adding at the end thereof the following new subsection:

16 “(d) For purposes of subsections (b)(1) and (c)(1), an
17 offense within the meaning of such subsections is established
18 if the Attorney General certifies to the agency administering
19 the annuity or retired pay concerned—

20 “(1) that an individual subject to this chapter
21 has been convicted by an impartial court of appro-
22 priate jurisdiction within a foreign country in cir-
23 cumstances in which the conduct violates the provi-
24 sions of law enumerated in subsections (b)(1) and
25 (c)(1), or would violate such provisions had such con-

1 *duct taken place with the United States, and that*
2 *such conviction is not being appealed or that final ac-*
3 *tion has been taken on such appeal;*

4 *“(2) that such conviction was obtained in ac-*
5 *cordance with procedures that provided the defendant*
6 *due process rights comparable to such rights provided*
7 *by the United States Constitution, and such convic-*
8 *tion was based upon evidence which would have been*
9 *admissible in the courts of the United States; and*

10 *“(3) that such conviction occurred after the date*
11 *of enactment of this subsection.”.*

12 **SEC. 709. PROVIDING A COURT ORDER PROCESS FOR PHYS-**
13 **ICAL SEARCHES UNDERTAKEN FOR FOREIGN**
14 **INTELLIGENCE PURPOSES.**

15 *(a) AMENDMENT OF THE FOREIGN INTELLIGENCE*
16 *SURVEILLANCE ACT OF 1978.—The Foreign Intelligence*
17 *Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amend-*
18 *ed—*

19 *(1) by redesignating title III as title IV and sec-*
20 *tion 301 as section 401, respectively;*

21 *(2) in section 401 (as redesignated) by inserting*
22 *“(other than title III)” after “provisions of this Act”;*
23 *and*

24 *(3) by inserting after title II the following new*
25 *title:*

1 **“TITLE III—PHYSICAL SEARCHES**
2 **WITHIN THE UNITED STATES**
3 **FOR FOREIGN INTELLIGENCE**
4 **PURPOSES**

5 *“AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN*
6 *INTELLIGENCE PURPOSES*

7 *“SEC. 301. (a) Applications for a court order under*
8 *this title are authorized if the President has, by written au-*
9 *thorization, empowered the Attorney General to approve ap-*
10 *plications to the Foreign Intelligence Surveillance Court.*
11 *Notwithstanding any other law, a judge of the court to*
12 *whom application is made may grant an order in accord-*
13 *ance with section 303 approving a physical search in the*
14 *United States of the premises, property, information, or*
15 *material of a foreign power or an agent of a foreign power*
16 *for the purpose of collecting foreign intelligence informa-*
17 *tion.*

18 *“(b) The Foreign Intelligence Surveillance Court shall*
19 *have jurisdiction to hear applications for and grant orders*
20 *approving a physical search for the purpose of obtaining*
21 *foreign intelligence information anywhere within the Unit-*
22 *ed States under the procedures set forth in this title, except*
23 *that no judge shall hear the same application which has*
24 *been denied previously by another judge designated under*
25 *section 103(a) of the Act. If any judge so designated denies*

1 *an application for an order authorizing a physical search*
2 *under this title, such judge shall provide immediately for*
3 *the record a written statement of each reason for his deci-*
4 *sion and, on motion of the United States, the record shall*
5 *be transmitted, under seal, to the court of review established*
6 *under section 103(b).*

7 “(c) *The court of review established under section*
8 *103(b) shall have jurisdiction to review the denial of any*
9 *application made under this title. If such court determines*
10 *that the application was properly denied, the court shall*
11 *immediately provide for the record a written statement of*
12 *each reason for its decision and, on petition of the United*
13 *States for a writ of certiorari, the record shall be transmit-*
14 *ted under seal to the Supreme Court, which shall have juris-*
15 *diction to review such decision.*

16 “(d) *Judicial proceedings under this title shall be con-*
17 *cluded as expeditiously as possible. The record of proceed-*
18 *ings under this title, including applications made and or-*
19 *ders granted, shall be maintained under security measures*
20 *established by the Chief Justice of the United States in con-*
21 *sultation with the Attorney General and the Director of*
22 *Central Intelligence.*

23 “APPLICATION FOR AN ORDER

24 “SEC. 302. (a) *Each application for an order approv-*
25 *ing a physical search under this title shall be made by a*
26 *Federal officer in writing upon oath or affirmation to a*

1 *judge of the Foreign Intelligence Surveillance Court. Each*
2 *application shall require the approval of the Attorney Gen-*
3 *eral based upon the Attorney General’s finding that it satis-*
4 *fies the criteria and requirements for such application as*
5 *set forth in this title. Each application shall include—*

6 “(1) *the identity of the Federal officer making*
7 *the application;*

8 “(2) *the authority conferred on the Attorney*
9 *General by the President and the approval of the At-*
10 *torney General to make the application;*

11 “(3) *the identity, if known, or a description of*
12 *the target of the search, and a detailed description of*
13 *the premises or property to be searched and of the in-*
14 *formation, material, or property to be seized, repro-*
15 *duced, or altered;*

16 “(4) *a statement of the facts and circumstances*
17 *relied upon by the applicant to justify the applicant’s*
18 *belief that—*

19 “(A) *the target of the physical search is a*
20 *foreign power or an agent of a foreign power;*

21 “(B) *the premises or property to be searched*
22 *contains foreign intelligence information; and*

23 “(C) *the premises or property to be searched*
24 *is owned, used, possessed by, or is in transit to*

1 *or from a foreign power or an agent of a foreign*
2 *power;*

3 “(5) *a statement of the proposed minimization*
4 *procedures;*

5 “(6) *a statement of the nature of the foreign in-*
6 *telligence sought and the manner in which the phys-*
7 *ical search is to be conducted;*

8 “(7) *a certification or certifications by the As-*
9 *stant to the President for National Security Affairs*
10 *or an executive branch official or officials designated*
11 *by the President from among those executive branch*
12 *officers employed in the area of national security or*
13 *defense and appointed by the President, by and with*
14 *the advice and consent of the Senate—*

15 “(A) *that the certifying official deems the*
16 *information sought to be foreign intelligence in-*
17 *formation;*

18 “(B) *that the purpose of the search is to ob-*
19 *tain foreign intelligence information;*

20 “(C) *that such information cannot reason-*
21 *ably be obtained by normal investigative tech-*
22 *niques;*

23 “(D) *that designates the type of foreign in-*
24 *telligence information being sought according to*
25 *the categories described in section 101(e); and*

1 “(E) includes a statement explaining the
2 basis for the certifications required by subpara-
3 graphs (C) and (D); and

4 “(8) a statement of the facts concerning all pre-
5 vious applications that have been made to any judge
6 under this title involving any of the persons, prem-
7 ises, or property specified in the application, and the
8 action taken on each previous application.

9 “(b) The Attorney General may require any other affi-
10 davit or certification from any other officer in connection
11 with the application.

12 “(c) The judge may require the applicant to furnish
13 such other information as may be necessary to make the
14 determinations required by section 303.

15 “ISSUANCE OF AN ORDER

16 “SEC. 303. (a) Upon an application made pursuant
17 to section 302, the judge shall enter an *ex parte* order as
18 requested or as modified approving the physical search if
19 the judge finds that—

20 “(1) the President has authorized the Attorney
21 General to approve applications for physical searches
22 for foreign intelligence purposes;

23 “(2) the application has been made by a Federal
24 officer and approved by the Attorney General;

25 “(3) on the basis of the facts submitted by the
26 applicant there is probable cause to believe that—

1 “(A) the target of the physical search is a
2 foreign power or an agent of a foreign power, ex-
3 cept that no United States person may be con-
4 sidered an agent of a foreign power solely upon
5 the basis of activities protected by the first
6 amendment to the Constitution of the United
7 States;

8 “(B) the premises or property to be searched
9 is owned, used, possessed by, or is in transit to
10 or from an agent of a foreign power or a foreign
11 power; and

12 “(C) physical search of such premises or
13 property can reasonably be expected to yield for-
14 eign intelligence information which cannot rea-
15 sonably be obtained by normal investigative
16 means;

17 “(4) the proposed minimization procedures meet
18 the definition of minimization contained in this title;
19 and

20 “(5) the application which has been filed con-
21 tains all statements and certifications required by sec-
22 tion 302, and, if the target is a United States person,
23 the certification or certifications are not clearly erro-
24 neous on the basis of the statement made under sec-

1 *tion 302(a)(7)(E) and any other information fur-*
2 *nished under section 302(c).*

3 *“(b) An order approving a physical search under this*
4 *section shall—*

5 *“(1) specify—*

6 *“(A) the identity, if known, or a description*
7 *of the target of the physical search;*

8 *“(B) the nature and location of each of the*
9 *premises or property to be searched;*

10 *“(C) the type of information, material, or*
11 *property to be seized, altered, or reproduced;*

12 *“(D) a statement of the manner in which*
13 *the physical search is to be conducted and, when-*
14 *ever more than one physical search is authorized*
15 *under the order, the authorized scope of each*
16 *search and what minimization procedures shall*
17 *apply to the information acquired by each*
18 *search; and*

19 *“(E) the period of time during which phys-*
20 *ical searches are approved; and*

21 *“(2) direct—*

22 *“(A) that the minimization procedures be*
23 *followed;*

24 *“(B) that, upon the request of the applicant,*
25 *a specified landlord, custodian, or other specified*

1 *person furnish the applicant forthwith all infor-*
2 *mation, facilities, or assistance necessary to ac-*
3 *complish the physical search in such a manner*
4 *as will protect its secrecy and produce a mini-*
5 *imum of interference with the services that such*
6 *landlord, custodian, or other person is providing*
7 *the target of the physical search;*

8 “(C) that such landlord, custodian or other
9 person maintain under security procedures ap-
10 proved by the Attorney General and the Director
11 of Central Intelligence any records concerning
12 the search or the aid furnished that such person
13 wishes to retain;

14 “(D) that the applicant compensate, at the
15 prevailing rate, such landlord, custodian, or
16 other person for furnishing such aid; and

17 “(E) that the Federal officer conducting the
18 physical search promptly report to the court the
19 circumstances and results of the physical search.

20 “(c)(1) An order issued under this section may ap-
21 prove a physical search for the period necessary to achieve
22 its purpose, or for ninety days, whichever is less, except that
23 an order under this section shall approve physical search
24 targeted against a foreign power, as defined in paragraph

1 (1), (2), or (3) of section 101(a), for the period specified
2 in the application or for one year, whichever is less.

3 “(2) Extensions of an order issued under this title may
4 be granted on the same basis as the original order upon
5 an application for an extension and new findings made in
6 the same manner as required for the original order, except
7 that an extension of an order under this Act for a physical
8 search targeted against a foreign power, as defined in sec-
9 tion 101(a) (5) or (6), or against a foreign power, as de-
10 fined in section 101(a)(4), that is not a United States per-
11 son, may be for a period not to exceed one year if the judge
12 finds probable cause to believe that no property of any indi-
13 vidual United States person will be acquired during the pe-
14 riod.

15 “(3) At or before the end of the period of time for which
16 a physical search is approved by an order or an extension,
17 or at any time after a physical search is carried out, the
18 judge may assess compliance with the minimization proce-
19 dures by reviewing the circumstances under which informa-
20 tion concerning United States persons was acquired, re-
21 tained, or disseminated.

22 “(d)(1) Notwithstanding any other provision of this
23 title, whenever the Attorney General reasonably determines
24 that—

1 “(A) an emergency situation exists with respect
2 to the execution of a physical search to obtain foreign
3 intelligence information before an order authorizing
4 such search can with due diligence be obtained, and

5 “(B) the factual basis for issuance of an order
6 under this title to approve such a search exists,

7 the Attorney General may authorize the execution of an
8 emergency physical search if—

9 “(i) a judge having jurisdiction under section
10 103 is informed by the Attorney General or the Attor-
11 ney General’s designee at the time of such authoriza-
12 tion that the decision has been made to execute an
13 emergency search, and

14 “(ii) an application in accordance with this title
15 is made to that judge as soon as practicable but not
16 more than 24 hours after the Attorney General au-
17 thorizes such search.

18 “(2) If the Attorney General authorizes an emergency
19 search under paragraph (1), the Attorney General shall re-
20 quire that the minimization procedures required by this
21 title for the issuance of a judicial order be followed.

22 “(3) In the absence of a judicial order approving such
23 a physical search, the search shall terminate the earlier of—

24 “(A) the date on which the information sought is
25 obtained;

1 “(B) the date on which the application for the
2 order is denied; or

3 “(C) the expiration of 24 hours from the time of
4 authorization by the Attorney General.

5 “(4) In the event that such application for approval
6 is denied, or in any other case where the physical search
7 is terminated and no order is issued approving the search,
8 no information obtained or evidence derived from such
9 search shall be received in evidence or otherwise disclosed
10 in any trial, hearing, or other proceeding in or before any
11 court, grand jury, department, office, agency, regulatory
12 body, legislative committee, or other authority of the United
13 States, a State, or political subdivision thereof, and no in-
14 formation concerning any United States person acquired
15 from such search shall subsequently be used or disclosed in
16 any other manner by Federal officers or employees without
17 the consent of such person, except with the approval of the
18 Attorney General, if the information indicates a threat of
19 death or serious bodily harm to any person. A denial of
20 the application made under this subsection may be reviewed
21 as provided in section 301.

22 “(e) Applications made and orders granted under this
23 title shall be retained for a period of at least 10 years from
24 the date of the application.

1 “USE OF INFORMATION

2 “SEC. 304. (a) Information acquired from a physical
3 search conducted pursuant to this title concerning any
4 United States person may be used and disclosed by Federal
5 officers and employees without the consent of the United
6 States person only in accordance with the minimization
7 procedures required by this title. No information acquired
8 from a physical search pursuant to this title may be used
9 or disclosed by Federal officers or employees except for law-
10 ful purposes.

11 “(b) No information acquired pursuant to this title
12 shall be disclosed for law enforcement purposes unless such
13 disclosure is accompanied by a statement that such infor-
14 mation, or any information derived therefrom, may only
15 be used in a criminal proceeding with the advance author-
16 ization of the Attorney General.

17 “(c) Whenever the United States intends to enter into
18 evidence or otherwise use or disclose in any trial, hearing,
19 or other proceeding in or before any court, department, offi-
20 cer, agency, regulatory body, or other authority of the Unit-
21 ed States, against an aggrieved person, any information ob-
22 tained or derived from a physical search of the premises
23 or property of that aggrieved person pursuant to the author-
24 ity of this title, the United States shall, prior to the trial,
25 hearing, or the other proceeding or at a reasonable time

1 *prior to an effort to so disclose or so use that information*
2 *or submit it in evidence, notify the aggrieved person and*
3 *the court or other authority in which the information is*
4 *to be disclosed or used that the United States intends to*
5 *so disclose or so use such information.*

6 “(d) *Whenever any State or political subdivision there-*
7 *of intends to enter into evidence or otherwise use or disclose*
8 *in any trial, hearing, or other proceeding in or before any*
9 *court, department, officer, agency, regulatory body, or other*
10 *authority of a State or a political subdivision thereof*
11 *against an aggrieved person any information obtained or*
12 *derived from a physical search of the premises or property*
13 *of that aggrieved person pursuant to the authority of this*
14 *title, the State or political subdivision thereof shall notify*
15 *the aggrieved person, the court or other authority in which*
16 *the information is to be disclosed or used, and the Attorney*
17 *General that the State or political subdivision thereof in-*
18 *tends to so disclose or so use such information.*

19 “(e)(1) *Any person against whom evidence obtained or*
20 *derived from a physical search to which he is an aggrieved*
21 *person is to be, or has been, introduced or otherwise used*
22 *or disclosed in any trial, hearing, or other proceeding in*
23 *or before any court, department, officer, agency, regulatory*
24 *body, or other authority of the United States, a State, or*
25 *a political subdivision thereof, may move to suppress the*

1 *evidence obtained or derived from such search on the*
2 *grounds that—*

3 “(A) *the information was unlawfully acquired;*

4 *or*

5 “(B) *the physical search was not made in con-*
6 *formity with an order of authorization or approval.*

7 “(2) *Such a motion shall be made before the trial, hear-*
8 *ing, or other proceeding unless there was no opportunity*
9 *to make such a motion or the person was not aware of the*
10 *grounds of the motion.*

11 “(f) *Whenever a court or other authority is notified*
12 *pursuant to subsection (c) or (d), or whenever a motion is*
13 *made pursuant to subsection (e), or whenever any motion*
14 *or request is made by an aggrieved person pursuant to any*
15 *other statute or rule of the United States or any State before*
16 *any court or other authority of the United States or any*
17 *State to discover or obtain applications or orders or other*
18 *materials relating to a physical search authorized by this*
19 *title or to discover, obtain, or suppress evidence or informa-*
20 *tion obtained or derived from a physical search authorized*
21 *by this title, the United States district court or, where the*
22 *motion is made before another authority, the United States*
23 *district court in the same district as the authority shall,*
24 *notwithstanding any other law, if the Attorney General files*
25 *an affidavit under oath that disclosure or any adversary*

1 *hearing would harm the national security of the United*
2 *States, review in camera and ex parte the application,*
3 *order, and such other materials relating to the physical*
4 *search as may be necessary to determine whether the phys-*
5 *ical search of the aggrieved person was lawfully authorized*
6 *and conducted. In making this determination, the court*
7 *may disclose to the aggrieved person, under appropriate se-*
8 *curity procedures and protective orders, portions of the ap-*
9 *plication, order, or other materials relating to the physical*
10 *search only where such disclosure is necessary to make an*
11 *accurate determination of the legality of the physical search.*

12 “(g) *If the United States district court pursuant to*
13 *subsection (f) determines that the physical search was not*
14 *lawfully authorized or conducted, it shall, in accordance*
15 *with the requirements of law, suppress the evidence which*
16 *was unlawfully obtained or derived from the physical search*
17 *of the aggrieved person or otherwise grant the motion of*
18 *the aggrieved person. If the court determines that the phys-*
19 *ical search was lawfully authorized or conducted, it shall*
20 *deny the motion of the aggrieved person except to the extent*
21 *that due process requires discovery or disclosure.*

22 “(h) *Orders granting motions or requests under sub-*
23 *section (g), decisions under this section that a physical*
24 *search was not lawfully authorized or conducted, and orders*
25 *of the United States district court requiring review or*

1 *granting disclosure of applications, orders, or other mate-*
2 *rials relating to the physical search shall be final orders*
3 *and binding upon all courts of the United States and the*
4 *several States except a United States Court of Appeals or*
5 *the Supreme Court.*

6 “(i) *If an emergency execution of a physical search is*
7 *authorized under section 303(d) and a subsequent order ap-*
8 *proving the search is not obtained, the judge shall cause*
9 *to be served on any United States person named in the ap-*
10 *plication and on such other United States persons subject*
11 *to the search as the judge may determine in his discretion*
12 *it is in the interests of justice to serve, notice of—*

13 “(1) *the fact of the application;*

14 “(2) *the period of the search; and*

15 “(3) *the fact that during the period information*
16 *was or was not obtained.*

17 *On an ex parte showing of good cause to the judge, the serv-*
18 *ing of the notice required by this subsection may be post-*
19 *poned or suspended for a period not to exceed 90 days.*
20 *Thereafter, on a further ex parte showing of good cause, the*
21 *court shall forego ordering the serving of the notice required*
22 *under this subsection.*

23 “CONGRESSIONAL OVERSIGHT

24 “SEC. 305. *On a semiannual basis the Attorney Gen-*
25 *eral shall fully inform the Permanent Select Committee on*
26 *Intelligence of the House of Representatives and the Select*

1 *duties and the physical search was authorized by and con-*
2 *ducted pursuant to a search warrant or court order of a*
3 *court of competent jurisdiction.*

4 “(c) *PENALTY.*—*An offense described in this section is*
5 *punishable by a fine of not more than \$10,000 or imprison-*
6 *ment for not more than five years, or both.*

7 “(d) *JURISDICTION.*—*There is Federal jurisdiction*
8 *over an offense under this section if the person committing*
9 *the offense was an officer or employee of the United States*
10 *at the time the offense was committed.*

11 “*CIVIL LIABILITY*

12 “*SEC. 307. CIVIL ACTION.*—*An aggrieved person, other*
13 *than a foreign power or an agent of a foreign power, as*
14 *defined in section 101 (a) or (b)(1)(A), respectively, of this*
15 *Act, whose premises, property, information, or material has*
16 *been subjected to a physical search within the United States*
17 *or about whom information obtained by such a physical*
18 *search has been disclosed or used in violation of section 306*
19 *shall have a cause of action against any person who com-*
20 *mitted such violation and shall be entitled to recover—*

21 “(1) *actual damages, but not less than liquidated*
22 *damages of \$1,000 or \$100 per day for each day of*
23 *violation, whichever is greater;*

24 “(2) *punitive damages; and*

25 “(3) *reasonable attorney’s fees and other inves-*
26 *tigative and litigation costs reasonably incurred.*

1 “AUTHORIZATION DURING TIME OF WAR

2 “SEC. 308. Notwithstanding any other law, the Presi-
3 dent, through the Attorney General, may authorize physical
4 searches without a court order under this title to acquire
5 foreign intelligence information for a period not to exceed
6 15 calendar days following a declaration of war by the Con-
7 gress.

8 “DEFINITIONS

9 “SEC. 309. As used in this title:

10 “(1) The terms ‘foreign power’, ‘agent of a for-
11 eign power’, ‘international terrorism’, ‘sabotage’, ‘for-
12 eign intelligence information’, ‘Attorney General’,
13 ‘United States person’, ‘United States’, ‘person’, and
14 ‘State’ shall have the same meanings as in section
15 101 of this Act.

16 “(2) ‘Aggrieved person’ means a person whose
17 premises, property, information, or material is the
18 target of physical search or any other person whose
19 premises, property, information, or material was sub-
20 ject to physical search.

21 “(3) ‘Foreign Intelligence Surveillance Court’
22 means the court established by section 103(a) of this
23 Act.

24 “(4) ‘Minimization procedures’ with respect to
25 physical search, means—

1 “(A) *specific procedures, which shall be*
2 *adopted by the Attorney General, that are rea-*
3 *sonably designed in light of the purposes and*
4 *technique of the particular physical search, to*
5 *minimize the acquisition and retention, and pro-*
6 *hibit the dissemination, of nonpublicly available*
7 *information concerning unconsenting United*
8 *States persons consistent with the need of the*
9 *United States to obtain, produce, and dissemi-*
10 *nate foreign intelligence information;*

11 “(B) *procedures that require that non-pub-*
12 *licly available information, which is not foreign*
13 *intelligence information, as defined in section*
14 *101(e) (1) of this Act, shall not be disseminated*
15 *in a manner that identifies any United States*
16 *person, without such person’s consent, unless*
17 *such person’s identity is necessary to understand*
18 *such foreign intelligence information or assess its*
19 *importance; and*

20 “(C) *notwithstanding subparagraphs (A)*
21 *and (B), procedures that allow for the retention*
22 *and dissemination of information that is evi-*
23 *dence of a crime which has been, is being, or is*
24 *about to be committed and that is to be retained*
25 *or disseminated for law enforcement purposes.*

1 “(5) ‘Physical search’ means any physical intru-
 2 sion into premises or property (including examina-
 3 tion of the interior of property by technical means)
 4 that is intended to result in a seizure, reproduction,
 5 inspection, or alteration of information, material, or
 6 property, under circumstances in which a person has
 7 a reasonable expectation of privacy and a warrant
 8 would be required for law enforcement purposes, but
 9 does not include ‘electronic surveillance’, as defined in
 10 section 101(f) of this Act.”.

11 (b) *CLERICAL AMENDMENT.*—The table of contents for
 12 the Foreign Intelligence Surveillance Act of 1978 is amend-
 13 ed by striking the items relating to title III and inserting
 14 the following:

“TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES
 FOR FOREIGN INTELLIGENCE PURPOSES

“Sec. 301. Authorization of physical searches for foreign intelligence purposes.
 “Sec. 302. Application for an order.
 “Sec. 303. Issuance of an order.
 “Sec. 304. Use of information.
 “Sec. 305. Congressional oversight.
 “Sec. 306. Penalties.
 “Sec. 307. Civil liability.
 “Sec. 308. Authorization during time of war.
 “Sec. 309. Definitions.

“TITLE IV—EFFECTIVE DATE

“Sec. 401. Effective Date.”.

15 (c) *EFFECTIVE DATE.*—The amendments made by sub-
 16 sections (a) and (b) shall take effect 90 days after the date
 17 of enactment of this Act, except that any physical search
 18 approved by the Attorney General to gather foreign intel-

1 *ligence information shall not be deemed unlawful for failure*
2 *to follow the procedures of title III of the Foreign Intel-*
3 *ligence Surveillance Act of 1978 (as added by this Act), if*
4 *that search is conducted within 180 days after the date of*
5 *enactment of this Act pursuant to regulations issued by the*
6 *Attorney General, which were in the possession of the Select*
7 *Committee on Intelligence of the Senate and the Permanent*
8 *Select Committee on Intelligence of the House of Represent-*
9 *atives before the date of enactment of this Act.*

10 **SEC. 710. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED**

11 **REMOVAL OF CLASSIFIED DOCUMENTS.**

12 (a) *IN GENERAL.*—Chapter 93 of title 18, United
13 States Code, is amended by adding at the end the following
14 new section:

15 **“§ 1924. Unauthorized removal and retention of clas-**
16 **sified documents or material**

17 “(a) *IN GENERAL.*—Whoever, being an officer, em-
18 ployee, contractor, or consultant of the United States, and,
19 by virtue of his office, employment, position, or contract,
20 becomes possessed of documents or materials containing
21 classified information of the United States, knowingly re-
22 moves such documents or materials without authority and
23 with the intent to retain such documents or materials at
24 an unauthorized location shall be fined not more than
25 \$1,000, or imprisoned for not more than 1 year, or both.

1 “(b) *DEFINITION.*—In this section, the term ‘classified
2 *information of the United States’* means information origi-
3 *nated, owned, or possessed by the United States Government*
4 *concerning the national defense or foreign relations of the*
5 *United States that has been determined pursuant to law*
6 *or Executive order to require protection against unauthor-*
7 *ized disclosure in the interests of national security.’”.*

8 (b) *CLERICAL AMENDMENT.*—The table of sections at
9 the beginning of such chapter is amended by adding at the
10 end the following:

“1924. Unauthorized removal and retention of classified documents or material.”.

11 ***SEC. 711. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.***

12 (a) *IN GENERAL.*—(1) In order to assist Congress in
13 its oversight functions with respect to this Act and to im-
14 prove the awareness of United States industry of foreign
15 industrial espionage and the ability of such industry to pro-
16 tect against such espionage, the President shall submit to
17 Congress a report that describes, as of the time of the report,
18 the following:

19 (A) The respective policy functions and oper-
20 ational roles of the agencies of the executive branch of
21 the Federal Government in identifying and counter-
22 ing threats to United States industry of foreign in-
23 dustrial espionage, including the manner in which
24 such functions and roles are coordinated.

1 (B) *The means by which the Federal Government*
2 *communicates information on such threats, and on*
3 *methods to protect against such threats, to United*
4 *States industry in general and to United States com-*
5 *panies known to be targets of foreign industrial espio-*
6 *nage.*

7 (C) *The specific measures that are being or could*
8 *be undertaken in order to improve the activities re-*
9 *ferred to in subparagraphs (A) and (B), including*
10 *proposals for any modifications of law necessary to*
11 *facilitate the undertaking of such activities.*

12 (D) *The threat to United States industry of for-*
13 *ign industrial espionage and any trends in that*
14 *threat, including—*

15 (i) *the number and identity of the foreign*
16 *governments conducting foreign industrial espio-*
17 *nage;*

18 (ii) *the industrial sectors and types of infor-*
19 *mation and technology targeted by such espio-*
20 *nage; and*

21 (iii) *the methods used to conduct such espio-*
22 *nage.*

23 (2) *The President shall submit the report required*
24 *under this subsection not later than 6 months after the date*
25 *of the enactment of this Act.*

1 (b) *ANNUAL UPDATE.*—Not later than 1 year after the
2 date referred to in paragraph (2) of subsection (a), and on
3 the expiration of each year thereafter, the President shall
4 submit to Congress a report updating the information re-
5 ferred to in paragraph (1)(D) of that subsection.

6 (c) *FORM OF REPORTS.*—To the maximum extent
7 practicable, the reports referred to in subsections (a) and
8 (b) shall be submitted in an unclassified form, but may be
9 accompanied by a classified appendix.

10 (d) *REPORT UNDER DEFENSE PRODUCTION ACT.*—
11 Section 721(k)(1)(B) of the Defense Production Act of 1950
12 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting
13 “or directly assisted” after “directed”.

14 (e) *DEFINITION.*—For the purposes of this section,
15 “foreign industrial espionage” means industrial espionage
16 conducted by a foreign government or by a foreign company
17 with direct assistance of a foreign government against a
18 private United States company and aimed at obtaining
19 commercial secrets.

20 **SEC. 712 COUNTERNARCOTICS TARGETS FUNDING.**

21 Not less than \$10,000,000 from the NSA base budget
22 shall be transferred to United States Army signals intel-
23 ligence activities directed at counternarcotics targets. A de-
24 tailed operations plan with special emphasis on the United
25 States/Mexico border and including the participation of the

1 *National Security Agency, the Drug Enforcement Adminis-*
2 *tration, the Federal Bureau of Investigation, and the Unit-*
3 *ed States Customs Service, shall be provided to the Senate*
4 *Select Committee on Intelligence and the House Permanent*
5 *Select Committee on Intelligence no later than November*
6 *15, 1994. This plan shall include a detailed description of*
7 *the planned targets and the type of intelligence collection,*
8 *dissemination, analysis and tasking that will be included*
9 *in these operations.*

10 ***TITLE VIII—COMMISSION ON***
11 ***THE ROLES AND CAPABILI-***
12 ***TIES OF THE UNITED STATES***
13 ***INTELLIGENCE COMMUNITY***

14 ***SEC. 801. ESTABLISHMENT.***

15 *There is established a commission to be known as the*
16 *Commission on the Roles and Capabilities of the United*
17 *States Intelligence Community (hereafter in this title re-*
18 *ferred to as the “Commission”).*

19 ***SEC. 802. COMPOSITION AND QUALIFICATIONS.***

20 *(a) MEMBERSHIP.—(1) The Commission shall be com-*
21 *posed of 17 members, as follows:*

22 *(A) Nine members shall be appointed by the*
23 *President from private life, no more than four of*
24 *whom shall have previously held senior leadership po-*
25 *sitions in the intelligence community.*

1 (B) Two members shall be appointed by the Ma-
2 jority Leader of the Senate, of whom one shall be a
3 Member of the Senate and one shall be from private
4 life.

5 (C) Two members shall be appointed by the Mi-
6 nority Leader of the Senate, of whom one shall be a
7 Member of the Senate and one shall be from private
8 life.

9 (D) Two members shall be appointed by the
10 Speaker of the House of Representatives, of whom one
11 shall be a Member of the House and one shall be from
12 private life.

13 (E) Two members shall be appointed by the Mi-
14 nority Leader of the House of Representatives, of
15 whom one shall be a Member of the House and one
16 shall be from private life.

17 (2) The members of Commission appointed from pri-
18 vate life under paragraph (1) shall be persons of dem-
19 onstrated ability and accomplishment in government, busi-
20 ness, law, academe, journalism, or other profession, who
21 have a substantial background in national security matters.

22 (b) CHAIRMAN.—The President shall designate one of
23 the members appointed from private life to serve as Chair-
24 man of the Commission.

1 (c) *PERIOD OF APPOINTMENT; VACANCIES.*—Members
2 shall be appointed for the life of the Commission. Any va-
3 cancy in the Commission shall not affect its powers but
4 shall be filled in the same manner as the original appoint-
5 ment.

6 (d) *DEADLINE FOR APPOINTMENTS.*—The appoint-
7 ments required by section subsection (a) shall be made with-
8 in 45 days after the date of enactment of this Act.

9 (e) *MEETINGS.*—(1) The Commission shall meet at the
10 call of the Chairman.

11 (2) The Commission shall hold its first meeting not
12 later than four months after the date of enactment of this
13 Act.

14 (f) *QUORUM.*—Nine members of the Commission shall
15 constitute a quorum, but a lesser number of members may
16 hold hearings, take testimony, or receive evidence.

17 (g) *SECURITY CLEARANCES.*—Appropriate security
18 clearances shall be required for members of the Commission
19 who are private United States citizens. Such clearances
20 shall be processed and completed on an expedited basis by
21 appropriate elements of the executive branch of Government
22 and shall, in any case, be completed within 90 days of the
23 date such members are appointed.

1 **SEC. 803. DUTIES OF THE COMMISSION.**

2 (a) *IN GENERAL.*—It shall be the duty of the Commis-
3 sion—

4 (1) *to review the efficacy and appropriateness of*
5 *the activities of the United States intelligence commu-*
6 *nity in the post-Cold War global environment; and*

7 (2) *to prepare and transmit the reports described*
8 *in section 804.*

9 (b) *IMPLEMENTATION.*—In carrying out subsection
10 (a), the Commission shall specifically consider the follow-
11 ing:

12 (1) *What should be the roles and missions of the*
13 *intelligence community in terms of providing support*
14 *to the defense and foreign policy establishments.*

15 (2) *Whether the roles and missions of the intel-*
16 *ligence community should extend beyond the tradi-*
17 *tional areas of providing support to the defense and*
18 *foreign policy establishments, and, if so, what areas*
19 *should be considered legitimate for intelligence collec-*
20 *tion and analysis, and whether such areas should in-*
21 *clude for example, economic issues, environmental is-*
22 *ssues, and health issues.*

23 (3) *What functions, if any, should continue to be*
24 *assigned the Central Intelligence Agency and what ca-*
25 *pabilities should it retain for the future.*

1 (4) *Whether the existing organization and man-*
2 *agement framework of the Central Intelligence Agency*
3 *provide the optimal structure for the accomplishment*
4 *of its mission.*

5 (5) *Whether existing principles and strategies*
6 *governing the acquisition and maintenance of intel-*
7 *ligence collection capabilities should be retained and*
8 *what collection capabilities should the Government re-*
9 *tain to meet future contingencies.*

10 (6) *Whether intelligence analysis, as it is cur-*
11 *rently structured and executed, adds sufficient value*
12 *to information otherwise available to the Government*
13 *to justify its continuation, and, if so, at what level*
14 *of resources.*

15 (7) *Whether the existing decentralized system of*
16 *intelligence analysis results in significant waste or*
17 *duplication, and, if so, what can be done to correct*
18 *these deficiencies.*

19 (8) *Whether the existing arrangements for allo-*
20 *cating available resources to accomplish the roles and*
21 *missions assigned to intelligence agencies are ade-*
22 *quate.*

23 (9) *Whether the existing framework for coordi-*
24 *nating among intelligence agencies with respect to in-*
25 *telligence collection and analysis and other activities,*

1 *including training and operational activities, pro-*
2 *vides an optimal structure for such coordination.*

3 *(10) Whether current personnel policies and*
4 *practices of intelligence agencies provide an optimal*
5 *work force to satisfy the needs of intelligence consum-*
6 *ers.*

7 *(11) Whether resources for intelligence activities*
8 *should continue to be allocated as part of the defense*
9 *budget or be treated by the President and Congress as*
10 *a separate budgetary program.*

11 *(12) Whether the existing levels of resources allo-*
12 *cated for intelligence collection or intelligence analy-*
13 *sis, or to provide a capability to conduct covert ac-*
14 *tions, are seriously at variance with United States*
15 *needs.*

16 *(13) Whether there are areas of redundant or*
17 *overlapping activity or areas where there is evidence*
18 *of serious waste, duplication, or mismanagement.*

19 *(14) To what extent, if any, should the budget for*
20 *United States intelligence activities be publicly dis-*
21 *closed.*

22 *(15) To what extent, if any, should the United*
23 *States intelligence community collect information*
24 *bearing upon private commercial activity and the*

1 *manner in which such information should be con-*
2 *trolled and disseminated.*

3 *(16) Whether counterintelligence policies and*
4 *practices are adequate to ensure that employees of in-*
5 *telligence agencies are sensitive to security problems,*
6 *and whether intelligence agencies themselves have ade-*
7 *quate authority and capability to address perceived*
8 *security problems.*

9 *(17) The manner in which the size, missions, ca-*
10 *pabilities, and resources of the United States intel-*
11 *ligence community compare to those of the Govern-*
12 *ments of the United Kingdom, Canada, Australia,*
13 *France, Israel, Russia, and Germany.*

14 *(18) Whether existing collaborative arrangements*
15 *between the United States and other countries in the*
16 *area of intelligence cooperation should be maintained*
17 *and whether such arrangements should be expanded to*
18 *provide for increased burdensharing.*

19 *(19) Whether existing arrangements for sharing*
20 *intelligence with multinational organizations in sup-*
21 *port of mutually-shared objectives are adequate.*

22 **SEC. 804. REPORTS.**

23 *(a) INITIAL REPORT.—Not later than two months after*
24 *the first meeting of the Commission, the Commission shall*

1 *transmit to the congressional intelligence committees a re-*
2 *port setting forth its plan for the work of the Commission.*

3 (b) *INTERIM REPORTS.*—*Prior to the submission of the*
4 *report required by subsection (c), the Commission may issue*
5 *such interim reports as it finds necessary and desirable.*

6 (c) *FINAL REPORT.*—*No later than March 1, 1996, the*
7 *Commission shall submit to the President and to the con-*
8 *gressional intelligence committees a report setting forth the*
9 *activities, findings, and recommendations of the Commis-*
10 *sion, including any recommendations for the enactment of*
11 *legislation that the Commission considers advisable. To the*
12 *extent feasible, such report shall be unclassified and made*
13 *available to the public. Such report shall be supplemented*
14 *as necessary by a classified report or annex, which shall*
15 *be provided separately to the President and the congres-*
16 *sional intelligence committees.*

17 **SEC. 805. POWERS.**

18 (a) *HEARINGS.*—*The Commission or, at its direction,*
19 *any panel or member of the Commission, may, for the pur-*
20 *pose of carrying out the provisions of this section, hold hear-*
21 *ings, sit and act at times and places, take testimony, receive*
22 *evidence, and administer oaths to the extent that the Com-*
23 *mission or any panel or member considers advisable.*

24 (b) *INFORMATION FROM FEDERAL AGENCIES.*—*The*
25 *Commission may secure directly from any intelligence*

1 agency or from any other Federal department or agency
2 any information that the Commission considers necessary
3 to enable the Commission to carry out its responsibilities
4 under this section. Upon request of the Chairman of the
5 Commission, the head of any such department or agency
6 shall furnish such information expeditiously to the Commis-
7 sion.

8 (c) *POSTAL SERVICES.*—The Commission may use the
9 United States mails and obtain printing and binding serv-
10 ices in the same manner and under the same conditions
11 as other departments and agencies of the Federal Govern-
12 ment.

13 (d) *SUBCOMMITTEES.*—The Commission may establish
14 panels composed of less than the full membership of the
15 Commission for the purpose of carrying out the Commis-
16 sion's duties. The actions of each such panel shall be subject
17 to the review and control of the Commission. Any findings
18 and determinations made by such a panel shall not be con-
19 sidered the findings and determinations of the Commission
20 unless approved by the Commission.

21 (e) *AUTHORITY OF INDIVIDUALS TO ACT FOR COMMIS-*
22 *SION.*—Any member or agent of the Commission may, if
23 authorized by the Commission, take any action which the
24 Commission is authorized to take under this title.

1 **SEC. 806. PERSONNEL MATTERS.**

2 (a) *COMPENSATION OF MEMBERS.*—Each member of
3 the Commission who is a private United States citizen shall
4 be paid at a rate equal to the daily equivalent of the annual
5 rate of basic pay payable for level V of the Executive Sched-
6 ule under section 5316 of title 5, United States Code, for
7 each day (including travel time) during which the member
8 is engaged in the performance of the duties of the Commis-
9 sion. All members of the Commission who are Members of
10 Congress shall serve without compensation in addition to
11 that received for their services as Members of Congress.

12 (b) *TRAVEL EXPENSES.*—Each member of the Com-
13 mission shall be allowed travel expenses, including per diem
14 in lieu of subsistence, at rates authorized for employees of
15 agencies under subchapter I of chapter 57 of title 5, United
16 States Code, while away from their homes or regular places
17 of business in the performance of services for the Commis-
18 sion.

19 (c) *STAFF.*—

20 (1) *IN GENERAL.*—The Chairman of the Com-
21 mission may, without regard to the provisions of title
22 5, United States Code, governing appointments in the
23 competitive service, appoint a staff director and such
24 additional personnel as may be necessary to enable
25 the Commission to perform its duties. The appoint-
26 ment of a staff director shall be subject to the ap-

1 *proval of the Commission. No member of the staff*
2 *shall be a current officer or employee of the intel-*
3 *ligence community.*

4 (2) *COMPENSATION.*—*The Chairman of the Com-*
5 *mission may fix the pay of the staff director and*
6 *other personnel without regard to the provisions of*
7 *chapter 51 and subchapter III of chapter 53 of title*
8 *5, United States Code, relating to classification of po-*
9 *sitions and General Schedule pay rates, except that*
10 *the rate of pay fixed under this paragraph for the*
11 *staff director may not exceed the rate payable for level*
12 *V of the Executive Schedule under section 5316 of*
13 *such title and the rate of pay for other personnel may*
14 *not exceed the maximum rate payable for grade GS-*
15 *15 of the General Schedule.*

16 (d) *DETAIL OF GOVERNMENT EMPLOYEES.*—*Upon re-*
17 *quest of the Chairman of the Commission, the head of any*
18 *Federal department or agency may detail, on a non-reim-*
19 *bursable basis, any personnel of that department or agency*
20 *to the Commission to assist it in carrying out its adminis-*
21 *trative and clerical functions, except that no person shall*
22 *be detailed to the staff of the Commission who is an officer*
23 *or employee of an intelligence agency.*

24 (e) *PROCUREMENT OF TEMPORARY AND INTERMIT-*
25 *TENT SERVICES.*—*The Chairman of the Commission may*

1 *procure temporary and intermittent services under section*
2 *3109(b) of title 5, United States Code, at rates for individ-*
3 *uals which do not exceed the daily equivalent of the annual*
4 *rate of basic pay payable for level V of the Executive Sched-*
5 *ule under section 5316 of such title.*

6 *(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The*
7 *Director of Central Intelligence shall furnish the Commis-*
8 *sion, on a non-reimbursable basis, any administrative and*
9 *support services requested by the Commission consistent*
10 *with this title.*

11 **SEC. 807. PAYMENT OF COMMISSION EXPENSES.**

12 *The compensation, travel expenses, per diem allow-*
13 *ances of members and employees of the Commission, and*
14 *other expenses of the Commission shall be paid out of funds*
15 *available to the Director of Central Intelligence for the pay-*
16 *ment of compensation, travel allowances, and per diem al-*
17 *lowances, respectively, of employees of the Central Intel-*
18 *ligence Agency.*

19 **SEC. 808. TERMINATION OF THE COMMISSION.**

20 *The Commission shall terminate one month after the*
21 *date of the submission of the report required by section*
22 *804(c).*

23 **SEC. 809. DEFINITIONS.**

24 *For purposes of this title—*

1 (1) *the term “intelligence agency” means any*
2 *agency, office, or element of the intelligence commu-*
3 *nity;*

4 (2) *the term “intelligence community” shall have*
5 *the same meaning as set forth in section 3(4) of the*
6 *National Security Act of 1947 (50 U.S.C. 401a(4));*
7 *and*

8 (3) *the term “congressional intelligence commit-*
9 *tees” refers to the Select Committee on Intelligence of*
10 *the Senate and the Permanent Select Committee on*
11 *Intelligence of the House of Representatives.*

Attest:

Secretary.

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HR 4299 EAS—3

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HR 4299 EAS—6

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