

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

[Public Law 103-359; approved October 14, 1994]

[As Amended Through P.L. 118-159, Enacted December 23, 2024]

【Currency: This publication is a compilation of the text of Public Law 103-359. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1995”.

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TITLE III—GENERAL PROVISIONS

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SEC. 304. REPEAL OF RESTRICTION ON INTELLIGENCE COOPERATION WITH SOUTH AFRICA.

【Section 304 repealed section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99-569).】

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TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ILLNESS OR INJURY REQUIRING HOSPITALIZATION.

【Section 401 amended section 4(a)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403(e)(a)).】

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SEC. 402. INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

【Section 402 amended section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q).】

SEC. 403. ADVANCED INFORMATION PRESENTATION PROJECT.

Of the funds made available under this Act, the Director of Central Intelligence is authorized during fiscal year 1995 to expend not more than \$3,000,000 to develop products to demonstrate multimedia and graphical data interface techniques on topics of general interest to policy makers and the public. The products shall utilize unclassified Government information, augmented if appropriate by commercially available information, and the project shall be limited to the development of not more than six products. In carrying out this section, the Director may acquire commercially available technology. Not later than August 1, 1995, the Director shall submit the products developed under this section to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. CENTRAL IMAGERY OFFICE.

(a)(1) 【Section 501(a)(1) amended section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)).】

(2) 【Section 501(a)(2) amended section 105(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–5(b)(2)).】

(3) 【Section 501(a)(3) amended section 106(b) of the National Security Act of 1947 (50 U.S.C. 403–6(b)).】

(b) 【Section 501(b) amended chapter 83 of title 10, United States Code.】

(c) 【Section 501(c) amended section 2302(a)(2)(C)(ii) of title 5, United States Code.】

(d) 【Section 501(d) amended section 3132(a)(1)(B) of title 5, United States Code.】

(e) 【Section 501(e) amended section 4301(1)(B)(ii) of title 5, United States Code.】

(f) 【Section 501(f) amended section 4701(a)(1)(B) of title 5, United States Code.】

(g) 【Section 501(g) amended section 5102(a)(1) of title 5, United States Code.】

(h) 【Section 501(h) amended section 5342(a)(1) of title 5, United States Code.】

(i) 【Section 501(i) amended section 6339(a)(1) of title 5, United States Code.】

(j) 【Section 501(j) amended section 7103(a)(3) of title 5, United States Code.】

(k) 【Section 501(k) amended section 7323(b)(2)(B)(i) of title 5, United States Code.】

(l) 【Section 501(l) amended section 7511(b)(8) of title 5, United States Code.】

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(m) [Section 501(m) amended section 105(a)(1) of the Ethics in Government Act of 1978 (5 U.S.C. App.).]

(n) [Section 501(n) amended section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2006(b)(2)(A)(i)).]

SEC. 502. EXCEPTION TO PUBLIC AVAILABILITY OF CERTAIN DEPARTMENT OF DEFENSE MAPS, CHARTS, AND GEODETIC DATA.

[Section 502 amended section 2796(b)(1) of title 10, United States Code.]

SEC. 503. [10 U.S.C. 424 nt] DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

(c) DEFINITIONS.—For the purposes of this section—

- (1) the term “United States” includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and
- (2) the term “United States person” means any citizen, national, or permanent resident alien of the United States.

SEC. 504. EXCEPTION FROM AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.

Section 1006 of the National Defense Authorization Act for Fiscal Year 1995 shall not apply to amounts which remain available for obligation on the date of the enactment of this Act for national foreign intelligence programs, projects, and activities.

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TITLE VI—CONSTRUCTION OF FACILITIES FOR THE INTELLIGENCE COMMUNITY

SEC. 601. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—

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(1) IN GENERAL.—Of the funds authorized to be made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102—

(A) \$50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the intelligence committees; and

(B) no such funds authorized to be made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(i) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(ii) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(2) APPLICATION OF PROVISIONS.—Paragraph (1)(B) shall not apply to contracts made or entered into for the purchase of real property, or for construction or acquisition, before the date of enactment of this Act.

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(1)(B)(ii), the President shall report in writing the determination to the intelligence committees.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.— Except to the extent and in the amounts specifically provided in an Act authorizing appropriations, in an appropriation Act, or in accordance with established reprogramming procedures, no funds made available under any provision of law may be obligated or expended for the construction of the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed \$310,000,000.

(d) DEFINITION.—As used in this section, the term “National Reconnaissance Office Headquarters Building project” means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-called Westfields site, and includes all construction and improvement of facilities (including “fit up”) and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

SEC. 602. [50 U.S.C. 3304] LIMITATION ON CONSTRUCTION OF FACILITIES TO BE USED PRIMARILY BY THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in subsection (b), no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of \$9,000,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

(2) NOTIFICATION.—In the case of a project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost greater than \$4,000,000 but less than \$9,000,000, or where any project for the improvement, repair, or modification of such a facility has an estimated Federal cost greater than \$4,000,000, the head of such component, in co-ordination with and subject to the approval of the Director of National Intelligence, shall submit a notification to the intelligence committees specifically identifying such project.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a) but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of National Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) REPORT.—(A) When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of National Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (i) the justification for the project and the current estimate of the cost of the project, (ii) the justification for carrying out the project under this subsection, and (iii) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 7-day period beginning on the date the notification is received by such committees.

(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the date the notification is received by the appropriate committees of Congress under that paragraph if the Director of National Intelligence and the Secretary of Defense jointly determine that—

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

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(ii) any delay in the commencement of the project would harm any or all of those interests.

(3) PROJECTS PRIMARILY FOR CIA.—If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of the Central Intelligence Agency shall make the determination and submit the report required by paragraphs (1) and (2).

(4) LIMITATION.—A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

(c) APPLICATION.—This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

SEC. 603. [50 U.S.C. 3302] IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET.

The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.

SEC. 604. [50 U.S.C. 3304 nt] DEFINITIONS.

As used in this title:

(1) INTELLIGENCE COMMITTEES.—The term “intelligence committees” means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE VII—CLASSIFICATION MANAGEMENT

SEC. 701. CLASSIFICATION AND DECLASSIFICATION OF INFORMATION.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall, by Executive order, provide for the classification and declassification of information. It is the sense of Congress that the Executive order should provide for the following:

(1) The qualification of information for classification only when its public disclosure would cause identifiable damage to the national security.

(2) The declassification of information if the appropriate authority within the Executive branch determines that the Government’s interest in continuing to protect such information is outweighed by the public’s interest in having the information made available.

(3) The automatic declassification of information that is more than 25 years old unless such information is within a category designated by the President as requiring document-by-

document review to identify that information whose disclosure to unauthorized persons would clearly damage the national security.

(b) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—The Executive order referred to in subsection (a) may not take effect until after 30 days after the date on which such proposed Executive order is submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations¹ of the House of Representatives and the Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate.

SEC. 702. DECLASSIFICATION PLAN.

Each agency of the National Foreign Intelligence Program to which is appropriated more than \$1,000,000 in the security, countermeasures, and related activities structural category for fiscal year 1995 shall allocate at least two percent of its total expenditure in this structural category for fiscal year 1995 to the classification management consolidated expenditure center, to be used for the following activities:

(1) Development of a phased plan to implement declassification guidelines contained in the Executive order which replaces Executive Order 12356. Each such agency shall provide the plan to Congress within 90 days after the beginning of fiscal year 1995 or 90 days after the publication of such replacement Executive order, whichever is later. This plan shall include an accounting of the amount of archived material, levels of classification, types of storage media and locations, review methods to be employed, and estimated costs of the declassification activity itself; as well as an assessment by the agency of the appropriate types and amounts of information to be maintained in the future, how it will be stored, safeguarded, and reviewed, and the projected costs of these classification management activities for the succeeding five years.

(2) Commencement of the process of declassification and reduction of the amount of archived classified documents maintained by each agency.

(3) Submission of a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate within 90 days after the end of fiscal year 1995 on the progress made in carrying out paragraph (2), with reference to the plan required by paragraph (1).

TITLE VIII—COUNTERINTELLIGENCE AND SECURITY

SEC. 801. [50 U.S.C. 3001 nt] SHORT TITLE.

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

¹The Committee on Government Operations was renamed to the Committee on Government Reform and Oversight by H. Res. 6 in the 104th Congress, and renamed the Committee on Government Reform by H. Res. 5 in the 106th Congress.

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SEC. 802. ACCESS TO CLASSIFIED INFORMATION.

(a) **【Section 802(a) added title VIII to the National Security Act of 1947 (50 U.S.C. 401 et seq.).】**

(b) **【Section 802(b) added title VIII to the table of contents of the National Security Act of 1947 (50 U.S.C. 401 et seq.).】**

(c) **【50 U.S.C. 3161 nt】 EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 180 days after the date of enactment of this Act.**

SEC. 803. REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) **【Section 803(a) amended section 3071 of title 18, United States Code.】**

(b) **【Section 803(b) amended section 3077 of title 18, United States Code.】**

(c) **【Section 803(c) amended the item relating to section 204 in the table of chapters for part II of title 18, United States Code and the heading for section 204.】**

SEC. 804. CRIMINAL FORFEITURE FOR VIOLATION OF CERTAIN ESPIONAGE LAWS.

(a) **【Section 804(a) added subsection (d) to section 798 of title 18, United States Code.】**

(b)(1) **【Section 804(b)(1) amended section 793(h)(3) of title 18, United States Code.】**

(2) **【Section 804(b)(2) amended section 794(d)(3) of title 18, United States Code.】**

(c) **【Section 804(c) added subsection (e) to section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783).】**

SEC. 805. DENIAL OF ANNUITIES OR RETIRED PAY TO PERSONS CONVICTED OF ESPIONAGE IN FOREIGN COURTS INVOLVING UNITED STATES INFORMATION.

【Section 805 added subsection (d) to section 8312 of title 5, United States Code.】

SEC. 806. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN TERMINATED INTELLIGENCE EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) **CONSOLIDATION AND EXTENSION OF AUTHORITY.—**

(1) **【Section 806(a)(1) added section 1599 to chapter 81 of title 10, United States Code.】**

(2) **【Section 806(a)(2) added section 1599 to the table of sections at the beginning of chapter 81 of title 10, United States Code.】**

(b) **REPEAL OF PREDECESSOR AUTHORITY.—**

(1) **【Section 806(b)(1) repealed paragraph (4) of section 1604(e) of title 10, United States Code.】**

(2) **【Section 806(b)(2) repealed section 17 of the National Security Agency Act of 1959 (50 U.S.C. 402 note).】**

SEC. 807. PROVIDING A COURT ORDER PROCESS FOR PHYSICAL SEARCHES UNDERTAKEN FOR FOREIGN INTELLIGENCE PURPOSES.

(a)(1) **【Section 807(a)(1) redesignated title III as title IV and section 301 as 401 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).】**

(1) by redesignating title III as title IV and section 301 as section 401, respectively;

(2) [Section 807(a)(2) amended section 401 (as so redesignated) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).]

(3) [Section 807(a)(3) added title III to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).]

(b) [Section 807(b) amended the table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).]

(c) [50 U.S.C. 1821 nt] **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall take effect 90 days after the date of enactment of this Act, except that any physical search approved by the Attorney General of the United States to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act.

SEC. 808. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED REMOVAL OF CLASSIFIED DOCUMENTS.

(a) [Section 808(a) added section 1924 to chapter 93 of title 18, United States Code.]

(b) [Section 808(b) added section 1924 to the table of sections at the beginning of chapter 93 of title 10, United States Code.]

SEC. 809. [50A U.S.C. 2170b] REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) **IN GENERAL.**—

(1) **SUBMISSION AND CONTENTS.**—In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

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(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

- (i) the number and identity of the foreign governments conducting foreign industrial espionage;
- (ii) the industrial sectors and types of information and technology targeted by such espionage; and
- (iii) the methods used to conduct such espionage.

(2) DATE OF SUBMISSION.—The President shall submit the report required under this subsection not later than six months after the date of the enactment of this Act.

(b) **[Repealed.]**

(c) FORM OF REPORTS.—To the maximum extent practicable, the report referred to in subsection (a) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) **[Section 809(d) amended section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)).]**

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

SEC. 810. COUNTERNARCOTICS TARGETS FUNDING.

Not less than \$5,000,000 from the base budget for the National Security Agency shall be transferred to United States Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the United States/Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the United States Customs Service, shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives no later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

SEC. 811. [50 U.S.C. 3381] COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.

(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The Board shall report to the President through the National Security Council.

(b) CHAIRPERSON.—The Director of the National Counterintelligence and Security Center appointed under section 902 of the Counterintelligence Enhancement Act of 2002 (50 U.S.C. 3382) shall serve as the chairperson of the Board.

(c) MEMBERSHIP.—The membership of the National Counterintelligence Policy Board shall consist of the following:

- (1) The Director of the National Counterintelligence and Security Center.

(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

(A) The Department of Justice, including the Federal Bureau of Investigation.

(B) The Department of Defense, including the Joint Chiefs of Staff.

(C) The Department of State.

(D) The Department of Energy.

(E) The Central Intelligence Agency.

(F) Any other department, agency, or element of the United States Government specified by the President.

(d) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—(1) The Board shall—

(A) serve as the principal mechanism for—

(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

(B) act as an interagency working group to—

(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

(ii) provide advice to the Director of the National Counterintelligence and Security Center on priorities in the implementation of the National Counterintelligence Strategy produced pursuant to section 904(e)(2) of that Act (50 U.S.C. 3383(e)(2)).

(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.

(e) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (5), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

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(2) Except as provided in paragraph (5), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels in a timely manner to the department or agency concerned, and that such departments or agencies are consulted in a timely manner with respect to espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency.

(3)(A) The Director of the Federal Bureau of Investigation shall submit to the head of the department or agency concerned a written assessment of the potential impact of the actions of the department or agency on a counterintelligence investigation.

(B) The head of the department or agency concerned shall—

(i) use an assessment under subparagraph (A) as an aid in determining whether, and under what circumstances, the subject of an investigation under paragraph (1) should be left in place for investigative purposes; and

(ii) notify in writing the Director of the Federal Bureau of Investigation of such determination.

(C) The Director of the Federal Bureau of Investigation and the head of the department or agency concerned shall continue to consult, as appropriate, to review the status of an investigation covered by this paragraph, and to reassess, as appropriate, a determination of the head of the department or agency concerned to leave a subject in place for investigative purposes.

(4)(A) The Federal Bureau of Investigation shall notify appropriate officials within the executive branch, including the head of the department or agency concerned, of the commencement of a full field espionage investigation with respect to an employee within the executive branch.

(B) A department or agency may not conduct a polygraph examination, interrogate, or otherwise take any action that is likely to alert an employee covered by a notice under subparagraph (A) of an investigation described in that subparagraph without prior coordination and consultation with the Federal Bureau of Investigation.

(5) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1), (2), or (3), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

(6)² Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

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

TITLE IX—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 901. [50 U.S.C. 3001 nt] ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the “Commission”).

SEC. 902. [50 U.S.C. 3001 nt] COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence community and no more than five of whom shall be members of the same political party.

(B) Two members shall be appointed by the majority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the minority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

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

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of the Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, jour-

² Public Law 108–177, which directed the amendment of subsection (c) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively, and striking out former par. (6), was executed by making the amendment to subsection (e) to reflect the probable intent of Congress and the redesignation of subsection (c) as subsection (e) by section 903(a)(2) of Public Law 107–306.

Public Law 108–458, which directed amendment of subsection (c)(6)(C) by substituting “Director of National Intelligence” for “Director of Central Intelligence”, could not be executed because of the amendments by section 903(a)(2) of Pub. L. 107–306 and section 361(g) of Public Law 108–177.

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nalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate two of the members appointed from private life to serve as Chairman and Vice Chairman, respectively, of the Commission.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by subsection (a) shall be made within 45 days after the date of enactment of this Act.

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

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

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

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

(h) APPLICATION OF CERTAIN PROVISIONS OF LAW.—In light of the extraordinary and sensitive nature of its deliberations, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall not apply to the Commission. Further, the provisions of section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”), shall not apply to the Commission; however, records of the Commission shall be subject to the Federal Records Act and, when transferred to the National Archives and Records Agency, shall no longer be exempt from the provisions of such section 552.

SEC. 903. [50 U.S.C. 3001 nt] DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-cold war global environment; and

(2) to prepare and transmit the reports described in section 904.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments and how should these relate to tactical intelligence activities.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intel-

ligence collection and analysis, and whether such areas should include, for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned to the organizations of the intelligence community, including the Central Intelligence Agency, and what capabilities should these organizations retain for the future.

(4) Whether the existing organization and management framework of the organizations of the intelligence community, including the Central Intelligence Agency, provide the optimal structure for the accomplishment of their missions.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

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

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

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

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

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

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agen-

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cies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of other countries.

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

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually shared objectives are adequate.

SEC. 904. [50 U.S.C. 3001 nt] REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

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

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. 905. [50 U.S.C. 3001 nt] POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL, PRINTING AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions

of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 906. [50 U.S.C. 3001 nt] PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The staff director of the Commission shall be appointed from private life, and such appointment shall be subject to the approval of the Commission as a whole. No member of the professional staff may be a current officer or employee of an intelligence agency, except that up to three current employees of intelligence agencies who are on rotational assignment to the Executive Office of the President may serve on the Commission staff, subject to the approval of the Commission as a whole.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel

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of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

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

SEC. 907. [50 U.S.C. 3001 nt] PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. 908. [50 U.S.C. 3001 nt] TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section 904(c).

SEC. 909. [50 U.S.C. 3001 nt] DEFINITIONS.

For purposes of this title—

(1) the term “intelligence agency” means any agency, office, or element of the intelligence community;

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

(3) the term “congressional intelligence committees” refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.