

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2004

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JUNE 18, 2003.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. GOSS, from the Permanent Select Committee on Intelligence,  
submitted the following

R E P O R T

[To accompany H.R. 2417]

[Including cost estimate of the Congressional Budget Office]

The Committee on Permanent Select Committee on Intelligence, to whom was referred the bill (H.R. 2417) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

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

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

Sec. 1. Short title; table of contents.

**TITLE I—INTELLIGENCE ACTIVITIES**

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

- Sec. 103. Personnel ceiling adjustments.  
 Sec. 104. Intelligence Community Management Account.  
 Sec. 105. Intelligence elements of the Department of the Treasury.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

- Sec. 201. Authorization of appropriations.

**TITLE III—GENERAL PROVISIONS**

**Subtitle A—Recurring General Provisions**

- Sec. 301. Increase in employee compensation and benefits authorized by law.  
 Sec. 302. Restriction on conduct of intelligence activities.

**Subtitle B—Intelligence**

- Sec. 311. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.

**Subtitle C—Counterintelligence**

- Sec. 321. Counterintelligence initiatives for the intelligence community.

**Subtitle D—Other Matters**

- Sec. 331. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.  
 Sec. 332. Modifications of authorities on explosive materials.  
 Sec. 333. Modification of prohibition on the naturalization of certain persons.  
 Sec. 334. Modification to definition of financial institution in the Right to Financial Privacy Act.  
 Sec. 335. Procedural requirements for Central Intelligence Agency relating to products of Federal prison industries.  
 Sec. 336. Improvement of information sharing among federal, State, and local government officials.

**Subtitle E—Reports and Technical Amendments**

- Sec. 341. Extension of deadline for final report of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.  
 Sec. 342. Modification of various reports required of intelligence community elements.  
 Sec. 343. Technical amendments.  
 Sec. 344. Report on lessons learned from military operations in Iraq.

**TITLE IV—CENTRAL INTELLIGENCE AGENCY**

- Sec. 401. Protection from tort liability for certain Central Intelligence Agency personnel.  
 Sec. 402. Repeal of limitation on use of funds in Central Services Working Capital Fund.

**TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS**

- Sec. 501. Use of funds for counterdrug and counterterrorism activities for Colombia.  
 Sec. 502. Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency.  
 Sec. 503. Authority for intelligence community elements of Department of Defense to award personal service contracts.  
 Sec. 504. Protection of certain National Security Agency personnel from tort liability.  
 Sec. 505. Measurement and signatures intelligence program.

## **TITLE I—INTELLIGENCE ACTIVITIES**

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

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

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The National Reconnaissance Office.
- (6) The National Imagery and Mapping Agency.
- (7) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (8) The Department of State.
- (9) The Department of the Treasury.
- (10) The Department of Energy.
- (11) The Department of Justice.
- (12) The Federal Bureau of Investigation.
- (13) The Department of Homeland Security.
- (14) The Coast Guard.

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

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified

Schedule of Authorizations prepared to accompany the bill H.R. 2417 of the One Hundred Eighth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

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

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2004 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

**SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 the sum of \$192,640,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 2005.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 320 full-time personnel as of September 30, 2004. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2004.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2004, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2004 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), \$34,248,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2005, and funds provided for procurement purposes shall remain available until September 30, 2006.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

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

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

**SEC. 105. INTELLIGENCE ELEMENTS OF THE DEPARTMENT OF THE TREASURY.**

(a) **IN GENERAL.**—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

“BUREAU OF INTELLIGENCE AND ENFORCEMENT OF THE DEPARTMENT OF THE  
TREASURY

“SEC. 119. (a) **IN GENERAL.**—There is within the Department of the Treasury a Bureau of Intelligence and Enforcement headed by an Assistant Secretary for Intelligence and Enforcement, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(b) **RESPONSIBILITIES.**—(1) The Assistant Secretary for Intelligence and Enforcement shall oversee and coordinate functions of the Bureau of Intelligence and Enforcement.

“(2) The Assistant Secretary shall report directly to the Secretary of the Treasury.

“(c) **COMPOSITION OF BUREAU.**—The Bureau of Intelligence and Enforcement shall consist of the following offices:

“(1) The Office of Intelligence Support.

“(2) The Office of Foreign Assets Control.

“(3) The Financial Crimes Enforcement Network.

“(4) Such other offices as the Assistant Secretary may establish.”.

(2) The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 118 the following new item:

“Sec. 119. Bureau of Intelligence and Enforcement of the Department of the Treasury.”.

(b) **CONSULTATION WITH DCI IN APPOINTMENT OF ASSISTANT SECRETARY FOR INTELLIGENCE AND ENFORCEMENT.**—Section 106(b)(2) of such Act (50 U.S.C. 403–6(b)(2)) is amended by adding at the end the following new subparagraph:

“(E) The Assistant Secretary for Intelligence and Enforcement.”.

(c) **CONFORMING AMENDMENTS.**—(1) Section 3(4) of such Act (50 U.S.C. 401a(4)) is amended—

(A) by striking “the Department of the Treasury,” in subparagraph (H);

(B) by striking “and” at the end of subparagraph (J);

(C) by redesignating subparagraph (K) as subparagraph (L); and

(D) by inserting after subparagraph (J) the following new subparagraph:

“(K) the Bureau of Intelligence and Enforcement of the Department of the Treasury; and”.

(2) Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury by striking “(7)” and inserting “(8)”.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM**

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

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2004 the sum of \$226,400,000.

## **TITLE III—GENERAL PROVISIONS**

### **Subtitle A—Recurring General Provisions**

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

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

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

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

## Subtitle B—Intelligence

**SEC. 311. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT OR IMPROVE INTELLIGENCE COMMUNITY FACILITIES.**

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

- (1) by striking “\$750,000” each place it appears and inserting “\$5,000,000”;
  - (2) by striking “\$500,000” each place it appears and inserting “\$1,000,000”;
- and
- (3) in paragraph (2), as amended by paragraph (2) of this subsection, by inserting after “\$1,000,000” the second place it appears, the following: “but less than \$5,000,000”.

(b) NOTICE AND WAIT REQUIREMENTS FOR EMERGENCY PROJECTS.—Section 602(b)(2) of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat. 3432; 50 U.S.C. 403–2b(b)(2)) is amended—

- (1) in the third sentence, by striking “21-day” and inserting “7-day”; and,
- (2) by adding at the end the following new sentence: “Notwithstanding the preceding provisions of this paragraph, when the Director of Central Intelligence and Secretary of Defense jointly determine that an emergency relating to the national security or to the protection of health, safety, or environmental quality exists and that delay would irreparably harm any or all of those interests, the project may begin on the date the notification is received by such committees.”.

## Subtitle C—Counterintelligence

**SEC. 321. COUNTERINTELLIGENCE INITIATIVES FOR THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—(1) Title XI of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“COUNTERINTELLIGENCE INITIATIVES

“SEC. 1102. (a) INSPECTION PROCESS.—(1) In order to protect intelligence sources and methods from unauthorized disclosure, the Director of Central Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.

“(2) The Director shall carry out the process through the Office of the National Counterintelligence Executive.

“(b) FBI COUNTERINTELLIGENCE OFFICE.—The Attorney General, acting through the Director of the Federal Bureau of Investigation, shall establish an Office of Counterintelligence within the Bureau to investigate potential espionage activities within the Bureau.

“(c) ANNUAL REVIEW OF DISSEMINATION LISTS.—(1) The Director of Central Intelligence shall establish and implement a process for all elements of the intelligence community (as defined in section 101(4)) to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized ‘need to know’ (as determined by the Director) are continued on such distribution lists.

“(2) Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.

“(d) REQUIRED COMPLETION OF FINANCIAL DISCLOSURE STATEMENTS.—(1) The Director of Central Intelligence shall establish and implement a process by which heads of the elements of the intelligence community (as defined in section 101(4)) direct that all employees, in order to be granted access to classified information,

submit financial disclosure forms required under section 1.3(b) of Executive Order No. 12969 (August 2, 1995; 60 F.R. 40245; 50 U.S.C. 435 note).

“(2) The Director shall carry out paragraph (1) through the Office of the National Counterintelligence Executive.

“(e) ARRANGEMENTS TO HANDLE SENSITIVE INFORMATION.—The Director of Central Intelligence shall establish, for all elements of the intelligence community (as defined in section 101(4)), programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.”.

(2) The table of contents contained in the first section of such Act is amended in the items relating to title XI by adding at the end the following new item:

“Sec. 1102. Counterintelligence initiatives.”.

(b) INTELLIGENCE AND NATIONAL SECURITY ASPECTS OF ESPIONAGE PROSECUTIONS.—The Attorney General, acting through the Office of Intelligence Policy and Review of the Department of Justice, in consultation with the Office of the National Counterintelligence Executive, shall establish policies and procedures to assist the Attorney General in the Attorney General’s consideration of intelligence and national security equities in the development of charging documents and related pleadings in espionage prosecutions.

## Subtitle D—Other Matters

### SEC. 331. EXTENSION OF SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 115 Stat. 1401; 22 U.S.C. 7301 note), as amended by section 351 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2401; 22 U.S.C. 7301 note), is amended—

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

(2) in the text, by striking “ending on October 1, 2003” and inserting “ending on the date that is 60 days after the date on which appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary’s designee) and the Director of the Office of Management and Budget (or the Director’s designee) that the operational framework for the office has been terminated”.

### SEC. 332. MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE MATERIALS.

(a) AUTHORITY TO DISTRIBUTE EXPLOSIVE MATERIALS TO QUALIFIED ALIENS.—Notwithstanding any other provision of law, it shall be lawful for any person knowingly to distribute explosive materials to any qualified alien—

(1) if, in the case of a qualified alien described in subsection (c)(1), the distribution to, shipment to, transportation to, receipt by, or possession by the alien of the explosive materials is in furtherance of such cooperation; or

(2) if, in the case of a qualified alien described in subsection (c)(2), the distribution to, shipping to, transporting to, possession by, or receipt by the alien of explosive materials is in furtherance of the authorized military purpose.

(b) AUTHORITY FOR QUALIFIED ALIENS TO SHIP EXPLOSIVE MATERIALS.—Notwithstanding any other provision of law, it shall be lawful for a qualified alien to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce—

(1) if, in the case of a qualified alien described in subsection (c)(1), the possession, shipment, or transportation by the alien of the explosive materials is in furtherance of such cooperation; or

(2) if, in the case of a qualified alien described in subsection (c)(2), the possession, shipment, or transportation by the alien of explosive materials is in furtherance of the authorized military purpose.

(c) QUALIFIED ALIEN DEFINED.—In this section, the term “qualified alien” means an alien—

(1) who is lawfully present in the United States in cooperation with the Director of Central Intelligence; or

(2) who is a member of a North Atlantic Treaty Organization (NATO), or other friendly foreign military force (as determined by the Attorney General with the concurrence of the Secretary of Defense) who is present in the United

States under military orders for training or other military purpose authorized by the United States.

**SEC. 333. MODIFICATION OF PROHIBITION ON THE NATURALIZATION OF CERTAIN PERSONS.**

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

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

(2) by inserting “and the Secretary of Homeland Security” after “Attorney General”.

**SEC. 334. MODIFICATION TO DEFINITION OF FINANCIAL INSTITUTION IN THE RIGHT TO FINANCIAL PRIVACY ACT.**

(a) **IN GENERAL.**—Section 1101(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(1)) is amended by inserting “, except as provided in section 1114,” before “means any office”.

(b) **DEFINITION.**—Section 1114 of such Act (12 U.S.C. 3414) is amended by adding at the end the following:

“(c) For purposes of this section, the term ‘financial institution’ has the same meaning as in section 5312(a)(2) of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the United States Virgin Islands.”.

**SEC. 335. PROCEDURAL REQUIREMENTS FOR CENTRAL INTELLIGENCE AGENCY RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES.**

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

“PROCEDURAL REQUIREMENTS FOR CENTRAL INTELLIGENCE AGENCY RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES

“SEC. 23. (a) **MARKET RESEARCH.**—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the Director shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the Agency’s needs in terms of price, quality, and time of delivery.

“(b) **COMPETITION REQUIREMENT.**—If the Director determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Agency’s needs in terms of price, quality, and time of delivery, the Director shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Director shall consider a timely offer from Federal Prison Industries.

“(c) **IMPLEMENTATION BY DIRECTOR.**—The Director shall ensure that—

“(1) the Agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the Agency determines that the product or service is comparable to products or services available from the private sector that best meet the Agency’s needs in terms of price, quality, and time of delivery; and

“(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Agency.

“(d) **MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.**—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Agency’s needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

“(e) **PERFORMANCE AS A SUBCONTRACTOR.**—(1) A contractor or potential contractor of the Agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the Agency by any means, including means such as—

“(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

“(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

“(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.



“(2) In this subsection, the term ‘contractor’, with respect to a contract, includes a subcontractor at any tier under the contract.

“(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Director may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

“(1) any data that is classified;

“(2) any geographic data regarding the location of—

“(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

“(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

“(C) other utilities; or

“(3) any personal or financial information about any individual private citizen, including information relating to such person’s real property however described, without the prior consent of the individual.

“(g) APPLICATION OF PROVISION.—This section is subject to the preceding provisions of this Act, and shall not be construed as affecting any right or duty of the Director under those provisions.

“(h) DEFINITIONS.—In this section:

“(1) The terms ‘competitive procedures’ and ‘procurement’ have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“(2) The term ‘market research’ means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

“(A) contacting knowledgeable individuals in government and industry;

“(B) interactive communication among industry, acquisition personnel, and customers; and

“(C) interchange meetings or pre-solicitation conferences with potential offerors.”.

**SEC. 336. IMPROVEMENT OF INFORMATION SHARING AMONG FEDERAL, STATE, AND LOCAL GOVERNMENT OFFICIALS.**

(a) PILOT PROJECT TO ENCOURAGE STATE AND LOCAL OFFICIALS, AS WELL AS REPRESENTATIVES OF CRITICAL INFRASTRUCTURE, TO COLLECT AND SHARE RELEVANT INFORMATION.—Section 892(c) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 482) is amended by adding at the end the following new paragraph:

“(3)(A) The Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security, in consultation with the Director of Central Intelligence, may conduct projects in several cities to encourage officials of State and local government, as well as representatives of industries that comprise the critical infrastructure in those cities to lawfully collect and to pass on to the appropriate Federal officials information vital for the prevention of terrorist attacks against the United States.

“(B) The Director of Central Intelligence shall carry out any duty under this paragraph through the Director of the Terrorist Threat Integration Center.

“(C) Under the projects, training shall be provided to such officials and representatives to—

“(i) identify sources of potential threats through such methods as the Secretary determines appropriate;

“(ii) report information relating to such potential threats to the appropriate Federal agencies in the appropriate form and manner; and

“(iii) assure that all reported information is systematically submitted to and passed on by the Department for use by appropriate Federal agencies.

“(D) The Under Secretary shall carry out the pilot project under this paragraph for a period of 3 years.

“(E) Not later than 1 year after the implementation of the pilot project, and annually thereafter, the Under Secretary shall submit to Congress a report on the pilot project conducted under this paragraph. Each such report shall include—

“(i) an assessment of the effectiveness of the project; and

“(ii) recommendations on the continuation of the project as well as any recommendations to improve the effectiveness of information collection and sharing by such officials and representatives and the Federal government.”.

(b) PILOT PROJECT TO TEST USE OF TEAR-LINE INTELLIGENCE REPORTS.—(1) Subtitle C of title II of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following new section:

**“SEC. 226. PILOT PROJECT TO TEST USE OF TEAR-LINE INTELLIGENCE REPORTS.**

“(a) **AUTHORITY.**—The Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security, in consultation with the Director of Central Intelligence, may carry out a pilot program under which the Under Secretary may make intelligence information in the possession of the Department available to officials of State and local governments through the use of tear-line intelligence reports.

“(b) **TEAR-LINE INTELLIGENCE REPORTS DESCRIBED.**—For purpose of this section, a tear-line report is a report containing intelligence gathered by an agency or department of the United States that is in the possession of the Department that is prepared in a manner such that information relating to intelligence sources and methods is easily severable from the report to protect such sources and methods from disclosure. Such a report may be in a paper or an electronic format.

“(c) **DURATION OF PROJECT.**—The Under Secretary shall carry out the pilot project under this section for a period of 3 years.

“(d) **REPORTS TO CONGRESS.**—Not later than 1 year after the implementation of the pilot project, and annually thereafter, the Under Secretary shall submit to Congress a report on the pilot project conducted under this section, and shall include in the report an assessment of—

“(1) the effectiveness of the use of the tear-line reports in providing intelligence information on a timely basis to State and local authorities; and

“(2) if the use of such tear-line reports were to be made permanent, whether additional safeguards are needed with respect to the use of such reports.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary such sums as may be necessary to carry out this section.”.

(2) The table of contents in section 1(b) of such Act is amended in subtitle C of title II by adding at the end the following new item.

“Sec. 226. Pilot project to test use of tear-line intelligence reports.”.

(c) **HOMELAND DEFENDER INTELLIGENCE TRAINING PROGRAM.**

(1) **ESTABLISHMENT OF PROGRAM.**—The Director of Central Intelligence may establish a comprehensive program of orientation and training to qualified State and local officials in accessing and using available resources of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4))).

(2) **CONSULTATION.**—Insofar as the Director establishes the intelligence training program under paragraph (1), the Director shall consult and coordinate with the director of the Federal Bureau of Investigation and the Secretary of Homeland Security on the development and administration of the program.

(3) **PROGRAM GOALS.**—Any intelligence training program established under paragraph (1) shall provide qualified State and local officials instruction on the mission and roles of the intelligence community to promote more effective information sharing among Federal, State, and local officials to prevent terrorist attacks against the United States.

(4) **CURRICULUM.**—Insofar as the Director establishes the intelligence training program under paragraph (1), the Director shall develop a curriculum for the program after consultation with qualified State and local officials. The curriculum shall include classroom instruction with respect to and orientation to the various elements of the intelligence community.

(5) **REPORTS TO CONGRESS.**—Not later than 1 year after the initial implementation of the intelligence training program under paragraph (1), and annually thereafter, the Director shall submit to Congress a report on the program. Each such report shall include—

(A) an assessment of the effectiveness of the project; and

(B) recommendations on the continuation of the project as well as any recommendations to improve the effectiveness of information collection and sharing by qualified officials and representatives and the Federal government.

(6) **QUALIFIED STATE AND LOCAL OFFICIALS DEFINED.**—For purposes of this subsection, the term “qualified State and local officials” means officials of State and local government agencies that Director of Central Intelligence determines—

(A) have received appropriate security clearances from the Director of the Federal Bureau of Investigation for access to classified information; and

(B) oversee or manage first responders or counterterrorism activities.

(7) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Director such sums as are necessary to carry out the intelligence training program under this subsection.

(d) **ADVISORY COUNCILS.**—(1) The Director of the Terrorist Threat Integration Center shall establish two advisory councils (described in paragraph (2)) to provide the Director such advice and recommendations as the Director may require to effectively carry out the functions of the Center.

(2)(A) One advisory council shall have as its focus privacy and civil liberties issues.

(B) The other advisory council shall have as its focus State and local government information needs.

## Subtitle E—Reports and Technical Amendments

### SEC. 341. EXTENSION OF DEADLINE FOR FINAL REPORT OF THE NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) **IN GENERAL.**—Subsection (a) of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note; 116 Stat. 2442) is amended by striking “September 1, 2003” and inserting “September 1, 2004”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of section 1007 of the Intelligence Authorization Act for Fiscal Year 2003.

### SEC. 342. MODIFICATION OF VARIOUS REPORTS REQUIRED OF INTELLIGENCE COMMUNITY ELEMENTS.

(a) **REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.**—Subsection (b)(1) of section 721 of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104–293; 110 Stat. 3474; 50 U.S.C. 2366), as amended by section 811(b)(5)(C) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2424; 50 U.S.C. 2366), is amended by striking “a semiannual” and inserting “an annual”.

(b) **PERIODIC AND SPECIAL REPORTS ON DISCLOSURE OF INTELLIGENCE INFORMATION TO UNITED NATIONS.**—Section 112(b)(1) of the National Security Act of 1947 (50 U.S.C. 404g(b)(1)) is amended by striking “semiannually” and inserting “annually”.

### SEC. 343. TECHNICAL AMENDMENTS.

(a) **NATIONAL SECURITY ACT OF 1947.**—Section 112(d)(1) of the National Security Act of 1947 (50 U.S.C. 404g(d)(1)) is amended by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

(b) **CENTRAL INTELLIGENCE AGENCY ACT OF 1949.**—(1) Section 6 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g) is amended by striking “section 103(c)(6)” and inserting “section 103(c)(7)”.

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

(A) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318),” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

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

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

(1) in subsection (a)(1), by striking “special policemen of the General Services Administration perform under the first section of the Act entitled ‘An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes’ (40 U.S.C. 318)” and inserting “officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,”; and

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

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

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

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

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

(f) FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.—Section 3535(b)(1) of title 44, United States Code, as added by section 1001(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296), and section 3545(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E–Government Act of 2002 (Public Law 107–347), are each amended by inserting “or any other law” after “1978”.

**SEC. 344. REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ.**

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom, including lessons relating to the following:

(1) The tasking, collection, processing, exploitation, analysis, and dissemination of intelligence.

(2) Accuracy, timeliness, and objectivity of intelligence analysis.

(3) Intelligence support to policymakers and members of the Armed Forces in combat.

(4) Coordination of intelligence activities and operations with military operations.

(5) Strengths and limitations of intelligence systems and equipment.

(6) Such other matters as the Director considers appropriate.

(b) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations on improvement in the matters described in subsection (a) as the Director considers appropriate.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives; and

(2) the Select Committee on Intelligence and the Committee on Armed Services of the Senate.

## TITLE IV—CENTRAL INTELLIGENCE AGENCY

**SEC. 401. PROTECTION FROM TORT LIABILITY FOR CERTAIN CENTRAL INTELLIGENCE AGENCY PERSONNEL.**

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

“(d)(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a) shall be deemed for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment if the Agency personnel take reasonable action, which may include the use of force, to—

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

“(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

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

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

(b) CONSTRUCTION.—Subsection (d) of section 15, as added by subsection (a), shall not be construed as affecting the authorities of the Attorney General under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Public Law 100–694; 28 U.S.C. 2671, 2674, 2679(b), 2679(d)).

**SEC. 402. REPEAL OF LIMITATION ON USE OF FUNDS IN CENTRAL SERVICES WORKING CAPITAL FUND.**

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

- (1) in subparagraph (A), by striking “(A) Subject to subparagraph (B), the Director” and inserting “The Director”; and
- (2) by striking subparagraph (B).

## **TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS**

**SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.**

(a) **EXTENSION OF AUTHORITY.**—Subsection (a) of section 501 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2404) is amended by striking “for fiscal years 2002 and 2003” and inserting “for each of fiscal years 2002 through 2005”.

(b) **MODIFICATION.**—Subsection (e) of such section is amended to read as follows:  
“(e) **PROHIBITION.**—No United States Armed Forces personnel, United States civilian employee or contractor engaged by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting to protect the life or the physical security of others, in self defense, or during the course of search and rescue operations.”

(c) **TECHNICAL AMENDMENT.**—Subsection (d) of such section is amended by striking “Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002,” and inserting “Section 553 and the certification requirements of section 564(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 200, 205), and section 8093 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1558; 10 U.S.C. 182 note).”

(d) **EFFECTIVE DATE.**—The amendments made by subsections (b) and (c) shall apply to assistance made available under such section 501 during fiscal years 2004 and 2005.

**SEC. 502. AUTHORITY TO PROVIDE LIVING QUARTERS FOR CERTAIN STUDENTS IN COOPERATIVE AND SUMMER EDUCATION PROGRAMS OF THE NATIONAL SECURITY AGENCY.**

Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Director of the National Security Agency may provide a qualifying employee of a defense laboratory of that Agency with living quarters at no charge, or at a rate or charge prescribed by the Director by regulation, without regard to section 5911(c) of title 5.

“(2) In this subsection, the term ‘qualifying employee’ means a student who is employed at the National Security Agency under—

“(A) a Student Educational Employment Program of the Agency conducted under this section or any other provision of law; or

“(B) a similar cooperative or summer education program of the Agency that meets the criteria for Federal cooperative or summer education programs prescribed by the Office of Personnel Management.”.

**SEC. 503. AUTHORITY FOR INTELLIGENCE COMMUNITY ELEMENTS OF DEPARTMENT OF DEFENSE TO AWARD PERSONAL SERVICE CONTRACTS.**

(a) **IN GENERAL.**—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 426. Personal services contracts: authority and limitations**

“(a) **PERSONAL SERVICES.**—(1) The Secretary of Defense may, notwithstanding section 3109 of title 5, enter into personal services contracts in the United States if the personal services directly support the mission of a defense intelligence component or counter-intelligence organization.

“(2) The contracting officer for a personal services contract shall be responsible for ensuring that a personal services contract is the appropriate vehicle for carrying out the purpose of the contract.

“(b) **DEFINITION.**—In this section, the term ‘defense intelligence component’ means a component of the Department of Defense that is an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“426. Personal services contracts: authority and limitations.”.

**SEC. 504. PROTECTION OF CERTAIN NATIONAL SECURITY AGENCY PERSONNEL FROM TORT LIABILITY.**

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

“(d)(1) Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—

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

“(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

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

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

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

**SEC. 505. MEASUREMENT AND SIGNATURES INTELLIGENCE RESEARCH PROGRAM.**

(a) RESEARCH PROGRAM.—The Secretary of Defense, acting through the Director of the Defense Intelligence Agency’s Directorate for MASINT and Technical Collection, shall carry out a program to incorporate the results of basic research on sensors into the measurement and signatures intelligence systems of the United States, to the extent the results of such research is applicable to such systems.

(b) PROGRAM COMPONENTS.—The program under subsection (a) shall review and assess both basic research on sensors and technologies conducted by the United States Government and by non-governmental entities. In carrying out the program, the Director shall protect intellectual property rights, maintain organizational flexibility, and establish research projects, funding levels, and potential benefits in an equitable manner through Directorate.

(c) ADVISORY PANEL.—(1) The Director shall establish an advisory panel to assist the Director in carrying out the program under subsection (a).

(2) The advisory panel shall be headed by the Director who shall determine the selection, review, and assessment of the research projects under the program.

(3)(A) The Director shall appoint as members of the advisory panel representatives of each entity of the MASINT community, and may appoint as such members representatives of national laboratories, universities, and private sector entities.

(B) For purposes of this subsection the term “MASINT community” means academic, professional, industrial, and government entities that are committed towards the advancement of the sciences in measurement and signatures intelligence.

(C) The term for a member of the advisory panel shall be established by the Director, but may not exceed a period of 5 consecutive years.

(D) Members of the advisory panel may not receive additional pay, allowances, or benefits by reason of their service on the advisory panel, but may receive per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(4) The Director may accept contributions from non-governmental participants on the advisory panel to defray the expenses of the advisory panel.

PURPOSE

The bill would:

(1) Authorize appropriations for fiscal year 2004 for (a) the intelligence and intelligence-related activities of the U.S. Government, (b) the Community Management Account, and (c) the Central Intelligence Agency Retirement and Disability System;

(2) Authorize the personnel ceilings on September 30, 2004 for the intelligence and intelligence-related activities of the U.S. Government and permit the Director of Central Intel-

ligence to authorize personnel ceilings in Fiscal Year 2003 for any intelligence element up to two percent above the authorized levels, with the approval of the Director of the Office of Management and Budget;

(3) Authorize \$226.4 million for the Central Intelligence Agency Retirement and Disability Fund (CIARDS) in order to fully fund the accruing cost of retirement benefits for individuals in the Civil Service Retirement System, CIARDS, and other federal retirement systems;

(4) Establish a Bureau of Intelligence and Enforcement within the Department of the Treasury, to be headed by an Assistant Secretary for Intelligence and Enforcement, that will enhance the government's ability to gather and process information about the financial support of terrorism and other illegal activity;

(5) Improve the government's ability to identify and prosecute individuals engaged in espionage against the United States;

(6) Require the DCI to report on lessons learned as a result of military operations in Iraq;

(7) Improve information sharing among federal, State, and local government officials;

(8) Extend the reporting deadline for the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community;

(9) Extend the authority for the use of funds designated for intelligence and intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities to be used also to fund counterterrorism activities in Colombia for each of fiscal years 2004 through 2005; and

(10) Provide limited immunity from tort liability to those Special Police Officers of the Central Intelligence Agency and the National Security Agency.

#### OVERALL PERSPECTIVE ON THE INTELLIGENCE BUDGET AND COMMITTEE INTENT

The classified annex to this public report includes the classified Schedule of Authorizations and its associated language. The Committee views the classified annex as an integral part of this legislation. The classified annex contains a thorough discussion of all budget issues considered by the Committee, which underlies the funding authorization found in the Schedule of Authorizations. The Committee intends that all intelligence programs discussed in the classified annex to this report be conducted in accord with the guidance and limitations set forth as associate language therein. The classified Schedule is incorporated directly into this legislation by virtue of section 102 of the bill. The classified annex is available for review by all Members of the House of Representatives, subject to the requirements of clause 13 of rule XXIII of the House, and the Rules of Procedure of the House Permanent Select Committee on Intelligence.

## SCOPE OF COMMITTEE REVIEW

U.S. intelligence and intelligence-related activities under the jurisdiction of the Committee include the National Foreign Intelligence Program (NFIP), the Tactical Intelligence and Related Activities (TIARA), and the Joint Military Intelligence Program (JMIP) of the Department of Defense.

The NFIP consists of all programs of the Central Intelligence Agency, as well as those national foreign intelligence and/or counterintelligence programs conducted by: (1) the Department of Defense; (2) the Defense Intelligence Agency; (3) the National Security Agency; (4) the National Reconnaissance Office; (5) the National Imagery and Mapping Agency; (6) the Departments of the Army, Navy, and Air Force; (7) the Department of State; (8) the Department of the Treasury; (9) the Department of Energy; (10) the Department of Justice; (11) the Federal Bureau of Investigation; (12) the Department of Homeland Security; and (13) the Coast Guard.

The Department of Defense TIARA are a diverse array of reconnaissance and target acquisition programs that are a functional part of the basic military force structure and provide direct information support to military operations. TIARA, as defined by the Joint Chiefs of Staff and the Secretary of Defense, include those military intelligence activities outside the General Defense Intelligence Program that respond to the needs of military commanders for operational support information, as well as to national command, control, and intelligence requirements. The Armed Services Committee in the House of Representatives has shared oversight and authorizing jurisdiction of the programs comprising TIARA.

The JMIP was established in 1995 to provide integrated program management of defense intelligence elements that support defense-wide or theater-level consumers. Included within JMIP are aggregations created for management efficiency and characterized by similarity, either in intelligence discipline (e.g., Signals Intelligence (SIGINT), Imagery Intelligence (IMINT)), or function (e.g., satellite support, aerial reconnaissance). The following aggregations are included in the JMIP: (1) the Defense Cryptologic Program (DCP); (2) the Defense Imagery and Mapping Program (DIMAP); (3) the Defense General Intelligence Applications Program (DGIAP), which itself includes (a) the Defense Airborne Reconnaissance Program (DARP), (b) the Defense Intelligence Tactical Program (DITP), (c) the Defense Intelligence Special Technologies Program (DISTP), (d) the Defense Intelligence Counterdrug Program (DICP), and (e) the Defense Space Reconnaissance Program (DSRP). As with TIARA programs, the Armed Services Committee in the House of Representatives has shared oversight and authorizing jurisdiction of the programs comprising the JMIP.

## COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee completed its review of the President's fiscal year 2004 budget request, carrying out its annual responsibility to prepare an authorization based on close examination of intelligence programs and proposed expenditures. The Committee, and in some cases, its component subcommittees, held 12 budget-related hearings covering all major intelligence programs within the National



Foreign Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities accounts.

As always, the Committee's legislative and budgetary actions are based on more than these budget-specific hearings. The actions taken in this bill are the result of the Committee's ongoing, rigorous oversight of the U.S. Intelligence Community. This oversight activity includes scores of Committee and subcommittee hearings on intelligence capabilities, strategies, plans, and challenges each year. In addition, the Committee Members and staff undertake hundreds of briefings and site visits annually.

Members of this Committee (and other observers) have noted repeatedly that the Global War on Terrorism (GWOT) has focused greater public attention on the Intelligence Community and its mission. In the 21 months since the terrorist attacks on the World Trade Center, the Pentagon, and United Flight 93, the men and women of the United States Intelligence Community have faced many and varied challenges. They have responded with commendable skill and determination.

Overall, the Committee finds that the U.S. Intelligence Community is making progress in many areas and that there has been a degree of recovery from the cutbacks in budgets, personnel, and capabilities that occurred following the end of the Cold War. As this Committee has stressed repeatedly, however, intelligence capabilities cannot be created—or bought—overnight. It takes time, sustained effort, and a long-term strategy to bring human intelligence (HUMINT), signals intelligence (SIGINT), imagery intelligence (IMINT), and other intelligence systems and disciplines to life successfully. A similar commitment is required to build and maintain the analytic expertise and depth of coverage necessary to make wise and timely use of the information collected.

Therefore, increased investments in resources and personnel, while necessary, are only a partial answer to the question of how to build an effective Intelligence Community for the decades to come. The Committee has sought to understand where those investments are made, how they will be sustained in the future, what specific intelligence capabilities are created, and how the information collected and analyzed as a result of those capabilities will be shared across the Community.

This legislation, along with its accompanying report and classified annex, contains the Committee's specific recommendations for where the U.S. Intelligence Community should be heading and how the fiscal year 2004 intelligence budget should be invested. The Committee's budgetary oversight activities have resulted in the Committee recommending in this legislation unanimously an authorization of appropriations that is just above the President's request. Underlying the individual provisions of this bill is the continued belief that the nation's security would benefit from fundamental structural and management changes within the Intelligence Community.

Specifically, H.R. 2417:

- Provides full support for the Intelligence Community's efforts in the war on terrorism;

- Postures the Intelligence Community for the future with a unified overhead imagery architecture;

Makes needed investments in analysis and analytic tools;  
and

Focuses on counterintelligence issues, including the adoption of several recommendations that stem from the Hanssen damage assessment.

Finally, the Committee continues to have significant concerns regarding the extent to which the Intelligence Community relies on supplemental appropriations to support a range of activities that the Committee considers core mission areas. The Committee reiterates its belief that supplemental funding may provide short-term fixes for specific emergencies, but the widespread, long-term reliance on supplemental funds has an erosive, negative effect on planning, investment, and oversight.

#### AREAS OF SPECIAL INTEREST

In the following several pages, the Committee highlights areas of concern that it believes must be addressed with a high priority by the Director of Central Intelligence (DCI) as the leader of the Intelligence Community, and by the administration generally if intelligence sufficient to protect our national security is to be obtained and provided. The Committee places particular emphasis on issues that impact the Intelligence Community as a whole or that involve several various programs.

##### *CIA's Compensation Reform Plan*

The Committee is disconcerted that many of the rank and file at the Central Intelligence Agency believe that the Congress is no longer interested in or engaged on the issue of compensation reform at the Agency. This is most certainly not the case. The Committee is further concerned that the prevailing belief is that the proposed compensation reform will become a reality regardless of the results of the ongoing pilot program.

The Congress directed, in the fiscal year 2003 Intelligence Authorization Act, that CIA establish a one-year pilot program to test a revised "pay for performance" compensation system proposed by CIA management. Given that the pilot program was not begun until February 1, 2003, the Committee considers it premature for CIA management to promote the idea that the compensation reform proposal is successful and will be implemented immediately upon completion of the pilot program. Clearly, an objective evaluation will need to be conducted once the pilot program has been completed. The Committee wants to make it clearly understood that any implementation of compensation reform will occur only after CIA management and the oversight committees have had ample opportunity to thoroughly review and fully address the conclusions of the pilot program evaluation.

##### *The Intelligence Community Imperative: The Primacy of the Analyst*

The Committee notes that the Intelligence Community (IC) has regularly touted the importance of the analyst. If one of the main goals of the IC is to put evaluated information before policy makers, then the importance of the analyst should be self-evident. There has been little evidence, however, to suggest that analytical efforts have received the primacy they deserve.

Part of this is driven by an imbalance of monetary requirements. Collection systems simply cost much more than do analytical efforts. The Committee is not suggesting that the IC reduce collection or that it invest in fewer collection mechanisms. On the contrary, the Committee believes that the IC must position itself to analyze more of what it collects. This is not an either/or choice. Collection is meaningless unless there are analysts available to work on the collected intelligence.

Several management issues are presented:

New analysts must be trained and retained. The formal training analysts receive remains brief and uneven across the Community. More emphasis must be placed on analyst training, on consistent career development, and on better mentoring.

Analytic tools can be helpful, but they cannot replace analysts in either numbers or in quality. A highly skilled and motivated analyst is more important than any analytic tool and far more dependable.

Analytic needs should drive collection, not vice versa. This has been repeated time after time by the Committee and across the Community, to little effect. A “collection dominated” system does not serve policy makers well. In such systems chances grow of a disjuncture between policy and intelligence.

Analysis is sharpened when there is competition among agencies on specific issues. It has become more difficult for agencies to take part in competitive analysis as the numbers of analysts have shrunk. The Committee expects that with increased hiring and better retention of the analytic cadre, that competitive analysis will likewise increase.

The Committee notes that some positive steps have been taken on these matters. The National Intelligence Priorities Framework (NIPF) that the Assistant Directors of Central Intelligence (ADCI) for Analysis & Production and for Collection have developed to carry out the President’s intelligence priorities make strides to correcting many of these issues. The Committee believes that the Director of Central Intelligence (DCI) must develop a coherent, focused program to achieve the above goals, in order to assure that analysis finally has the primacy it needs for the Intelligence Community to best serve the needs of policy makers and the nation’s security.

#### *Global HUMINT and Core Mission*

Supporting the global war on terrorism is currently the top priority of America’s intelligence agencies. The Committee believes that, with few exceptions, they are doing a commendable—and sometimes remarkable—job. One of the casualties of this war, however, is adequate HUMINT coverage in areas of the world that easily could produce America’s next security crisis. Given the very limited numbers of experienced HUMINT officers, and especially those with deep geographical area and foreign language expertise, the agencies have been forced to make whole regions of the world, and certain key issues, a lower intelligence collection priority. The primary reason for this inadequacy is the underinvestment in this core capability during the mid to late 1990s.

As a result of that underinvestment, experienced HUMINT officers have needed to be “surged” time and again from their home

areas to provide crisis support. Gaps in intelligence collection and production are the immediate, noticeable result. Less noticeable, but perhaps more ominous, is the inevitable damage to America's future security. Quality human-sourced intelligence is entirely dependent on carefully nurtured human relationships, and the key element of such relationships is mutual trust. Human partnerships of this sort cannot be built overnight. Trusted, quality, human-sourced intelligence cannot be treated like water in a fire hydrant; to be opened only in cases of emergency. Rather, it needs to be a deep reservoir that is consistently available.

When officers are "surged" away from their areas of expertise, their existing relationships often wither, and the new relationships they are expected to build in a compressed timeframe, and with pressing national security imperatives, never come into being. The sources of future HUMINT, to include intelligence on the plans and intentions of future foes, and erstwhile friends, are like seeds for future crops. An inadequate number of seeds were planted over the past decade. Far too few are being planted currently. The Committee would note, with disapproval, that in some areas they are not being planted at all. This is an entirely unacceptable state of affairs.

The Committee recognizes the extraordinary demands being made on our limited HUMINT cadres, and likewise understands management's inclination to mass resources on the terrorist target. Still, it seems that more attention must be given, as well, to the development of quality human-sourced intelligence that is forward looking and not constrained predominately by the counterterrorism collection requirements. This need not be an "either/or" proposition. The Committee believes that keeping expert officers in the area of their expertise, for the sake of America's future needs, is critical to meeting this enhanced HUMINT collection capability.

The Committee has received welcome assurances that the situation in the future will be better with the hiring and training of increased numbers of HUMINT officers. The Committee will only be completely assured, however, when these new officers, with their new tradecraft and foreign language skills, are sent abroad to acquire core mission experience and establish area expertise. If they, too, are "surged" away to areas of crisis in response to the needs of the moment, then the current rebuilding of core mission capabilities and global HUMINT coverage will not be seen as a promising exercise. Needless to say, the Committee will be aggressive in its oversight on this issue. The United States and its citizens can afford nothing less.

#### *FBI Reform Efforts*

The Committee wishes to commend the Federal Bureau of Investigation for its remarkable efforts and progress since September 11, 2001. The Federal Bureau of Investigation, has undertaken a critical reevaluation of both its priorities and its methods of accomplishing its national security obligations and objectives. In order to meet emerging threats and to counter the means used to carry out those threats, the FBI has developed a new strategic focus.

In order to meet each of its priorities, the FBI's workforce is being realigned in several ways. The FBI Director has, among other initiatives,

shifted approximately 1,000 Special Agents to counterterrorism, thereby doubling the FBI's prior commitment;

established Joint Terrorism Task Forces (JTTFs) in every FBI field office and a National JTTF at FBI Headquarters (which includes representatives from 30 federal, State, and local agencies);

created the Counterterrorism Prevention and Analysis Branch;

hired approximately 100 counterterrorism analysts in fiscal year 2002;

strengthened its language translation capabilities by more than 200% over pre-9/11 levels, with a particular emphasis in languages pertinent to the threat posed by al Qaeda; and

enabled State and local law enforcement authorities to participate more fully in the national counterterrorism effort by placing relevant information in the Violent Gang/Terrorist Organizations File (VGTOF) of the National Crime Information Center (NCIC), which is a database available to over 600,000 State and local law enforcement officers.

The FBI, likewise, leads the Foreign Terrorist Tracking Task Force (FTTTF), which is a multi-agency task force established by the President to keep foreign terrorists and their supporters out of the U.S. through entry denial, removal, or other appropriate action. The FBI is a main participant in the Terrorist Threat Integration Center (TTIC). Finally, the FBI operates with the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency in a Document Exploitation working group to review documents, electronic media, videotapes, and other materials obtained as a result of military and intelligence community actions, particularly in Afghanistan and Pakistan. All of this is progress, and the Committee anticipates continued improvements in this regard.

The FBI has also acknowledged the need for improving its counterintelligence capabilities. The Hanssen damage assessment and the recent criminal charges leveled against Katrina Leung and J.J. Smith make plain the need for immediate corrective action in this regard. Moreover, the foreign intelligence threat currently facing the U.S. from foreign nation-state and non-state actors is increasingly complex and asymmetrical. The Committee supports steps the FBI has taken so far, such as:

Developing a national CI strategy with specified objectives;

Establishing a centrally managed analysis program to assess foreign intelligence threats on a national level;

Designating a counterespionage section to focus investigative efforts on espionage activities.

The Committee notes with concern the lack of management oversight of CI cases that has become apparent in the Leung case, and while it may be a vestige of past historical practices, looks forward to regular updates on how management practices and CI guidelines, including asset validation efforts, are currently being implemented.

The Committee notes that there are still several proposals relating to the enhancement of the FBI's CI program that are in various stages of development and implementation. The Committee antici-

pates positive movement in this regard and anticipates status reports from the FBI as these matters move closer to completion.

The Committee applauds the FBI for its acknowledgment that few things are more critical to the ability of the FBI to accomplish its counterterrorism and other missions than the establishment of a solid relationship between it and the larger law enforcement community at all levels of government. In order to ensure that the communication flow and valued relationships continue to improve, the FBI created the Office of Law Enforcement Coordination to build and strengthen relationships among and between the FBI and its federal, State, and local law enforcement colleagues. Committee members remain concerned that information sharing between the FBI and State and local law enforcement colleagues still needs improvements. The Committee strongly urges the FBI to place a high priority on making additional progress on this issue.

Finally, the Committee supports the FBI's plan to improve its information technology infrastructure. The development of flexible, powerful, and user-friendly information management tools is central to the FBI's ability to meet its requirements with respect to counterterrorism as well as counterintelligence. The Committee is aware of the progress the FBI has made in this regard, including the development of a Virtual Case File. The importance of such improvements continuing and being sustained in the out-years cannot be overstated.

#### *Funding by Supplemental Appropriations*

The Committee is compelled to restate its concern with respect to the use of supplemental appropriations to fund lower priority, but still important, intelligence and intelligence-related programs. But these have not been the only programs funded through this process. Core mission and core mission support programs have also been included in supplemental appropriations. The Committee recognizes that this practice has its genesis in a fiscal strategy presented due to crisis response. The repeated reliance on supplemental appropriations has an erosive negative effect on planning, and impedes long-term, strategic planning. The Committee hopes that the IC has finally reached a plateau of resources and capabilities on which long-term strategic planning can now begin.

It is imperative that the FY 2005 budget request for the IC identify both the strategic and tactical needs of the IC. The Committee expects that the FY 2005 budget request will prioritize rationally across the various agencies. The Committee anticipates that it will provide the necessary funding to accomplish core mission, core mission support, and strategic posturing. It should anticipate the intelligence needs of the future and provide sufficient research and development funds to position the IC well for the next generation of national security issues facing the nation.

The Committee cannot help but note that budgeting by supplemental consequentially limits congressional oversight. The Committee strongly believes that the health of the IC is directly related to the oversight from Congress it receives. Certainly, the confidence of the American people in the activities and programs of the IC is increased significantly as a result of the transparency that exists between the IC and its congressional overseers.

*Consolidation of Information Technology*

In the Fiscal Year 2003 Intelligence Authorization Act, the Conferees directed that funds authorized within the Consolidated Cryptologic Program (CCP) could be obligated or expended on information technology (including computers, storage capability, servers, switches, etc.) only after review and approval by the Information Technology Directorate. The Committee notes, however, that the fiscal year 2004 CCP Congressional Budget Justification Book and NSA briefings have not provided the assurance that this review and approval is occurring. Duplication of effort, for example, continues to occur as efforts to recapitalize the information technology infrastructure at SIGINT field site progresses. Numerous examples can be identified. The Information Technology Directorate should be managing these information technology infrastructure modernization efforts in a prioritized method based on user needs. The Senior Acquisition Executive should be responsible for ensuring the acquisition programs directed to deliver the needed information technology capabilities are executing the acquisitions properly.

For the GROUNDBREAKER program, the Information Technology Directorate conducted a wall-to-wall inventory of "administrative" information technology resources. As a result, most of the "administrative" information technology resources are also used as "mission" information technology resources. The boundaries between administrative and mission information technology are artificial, and are apparently used to justify developing and purchasing information technology resources without the knowledge and consent of the Director of Information Technology, who is responsible for information technology resources.

Accordingly, to ensure that funding for information technology resources is effectively spent, the Committee directs that no funding within the CCP may be obligated or expended for any information technology hardware used for administrative or mission purposes without the review and approval of the Director of Information Technology. This review is intended to ensure that information technology solutions are not being provided elsewhere, and that they are consistent with the information technology configuration baseline, support agreements and modernization plans. The NSA Senior Acquisition Executive remains responsible and accountable for acquisition of all such capability.

*National Foreign Intelligence Support to Homeland Security*

The Committee understands that certain Department of Defense agencies funded within the National Foreign Intelligence Program (NFIP) have been directed to limit the amount of resources dedicated to supporting the Department of Homeland Security. The Committee notes that the Director of Central Intelligence is, through the resources and activities of the NFIP, responsible for supporting all U.S. government national security interests, as directed by the President. The Committee would find very troubling any direction to NFIP agencies that would limit the DCI's ability to provide intelligence to any appropriate U.S. government entity, particularly the Department of Homeland Security.

*The Intelligence Community's Role in Protecting the Homeland*

The Committee supports the goal of developing an effective intelligence architecture for protecting the homeland. The Committee, of course, supports innovation in the IC's missions, structures, and processes to improve its role in securing the homeland. The Committee notes, however, a number of important challenges facing the IC.

The first challenge is that of focusing sufficient attention on the role of State, local, and private sector actors. The Committee recognizes the tremendous progress made in sharing information and coordinating operationally with State and local officials on counterterrorism matters. Nevertheless, with anecdotal evidence indicating improvements are still needed, the Committee encourages renewed attention to these efforts, and would highlight the need for incorporating private sector security officials within the information cycle. In particular, the Committee suggests reinforcing the information sharing mechanisms inherent in the FBI's JTTF program. The IC should also complement the significant but informal verbal communication channels with increasingly automated and more useful near-real-time electronic dissemination mechanisms. Additionally, efforts should be made to ensure that State, local, and private sector counterterrorism officials are appropriately-trained and tied in to federal counterterrorism efforts through the FBI, the Department of Homeland Security, and all other relevant federal mechanisms.

The next challenge involves building an effective IT infrastructure ensuring interoperability and information sharing across federal, State, and local (to include the private sector) levels. This "virtual" reorganization is important to any degree of success in this area. The Committee notes that these efforts are just beginning within the Intelligence Community and within a number of other federal agencies. Senior managers across the intelligence agencies, including particularly the newly-established Terrorist Threat Integration Center (TTIC), should ensure that new phases of implementation of IT information sharing infrastructure are appropriately coordinated to ensure an effective and productive government-wide enterprise architecture.

Thirdly, building new capabilities that are not just available, but that are coordinated parts of an integrated whole may be the most difficult challenge faced by federal, State, local, and private sector counterterrorism authorities. Since the September 11th terrorist attacks, a range of initiatives have been undertaken to focus on improving the architecture for the collection, analysis, and use of intelligence for the protection of the U.S. homeland. The FBI, as noted, has undertaken a number of structural, personnel, and information management reforms to improve its counterterrorism capabilities, as well as its intelligence collection, analysis, and exploitation capabilities. Part of this effort included the expansion of the JTTF program into 66 locations across the nation in order to address information sharing and operational coordination needs between federal, State, and local counterterrorism personnel. The Committee notes this progress with approval. The Committee would suggest, however, that the FBI still has much to do to transform itself into something that is more than just a highly capable criminal investigative organization. The Committee's vision for the



FBI is for the FBI to also provide the U.S. government with a distinct preemptive capability and to engage both domestically and internationally, in coordination with other IC elements, wherever and whenever the threat of terrorism affects U.S. interests. Moving the FBI, strategically and aggressively, into the international arena, in close coordination with other IC elements, can be a force multiplier for the American people.

In addition to the FBI, the new Department of Homeland Security opened for business on March 1, 2003, with the goal of creating a stronger homeland protection capability, while also building a new Directorate for Information Analysis and Infrastructure Protection (IAIP) to link threat information to critical infrastructure vulnerabilities. Moreover, the Department of Defense has established a new command, Northern Command (NORTHCOM), to provide an intelligence picture for DOD components supporting the defense of the homeland. Finally, on May 1, 2003, the TTIC opened its doors, with plans to move elements of the FBI's Counterterrorism Division and CIA's Counterterrorism Center into a collocated facility within a year. Undoubtedly, the Committee welcomes all of this action in defense of the American homeland. The Committee looks to the IC, along with the revitalized Homeland Security Council, to play a central coordinating role in terms of helping government avoid unnecessary duplication, inefficient use of resources, and managing the inevitable interagency squabbles that will develop.

The Committee urges the President and the DCI to continue to devote significant attention to the process of coordination and interagency management on these restructuring efforts. Ultimately, the Committee supports efforts to ensure a strategic focus on innovation and on building necessary new capabilities. It will remain a primary focus of the Committee's attention.

#### *Congressional Budget Justification Books*

For over three years the intelligence and appropriations committees have requested that National Foreign Intelligence Program (NFIP) Congressional Budget Justification Books (CBB) follow the same format and contain at least the same detail level as the Department of Defense TIARA Congressional Justification Books (CJBs). The Committee believes that this format change would result in greater understanding of NFIP budgets, resulting in many fewer formal questions for the record. Some agencies have been able to produce more detailed budgetary information when specifically requested, but in most cases this information is not provided in the CBBs. The Committee believes, for example, that acquisition program details in the CBBs should include major milestones and deliverables for contracted projects for the entire length of a contract and contain more specificity for the budget year of the request. Many of the project milestones in the CBBs are, however, at such a high-level that the Committee is unable to determine the stage of the development activity or what will be accomplished in the coming year. The project descriptions are often so vague that the Committee is unable to determine the value of, or even what is being developed. The Committee discusses this issue further in the classified annex to accompany this bill.

*Intelligence Community Efforts To Improve Its Skills Mix, Expertise, and Capabilities through Diversity*

The Committee has previously expressed the view that diversity throughout the Intelligence Community (IC) population, and in its management ranks, can pay dividends with respect to the richness it brings to the work of the IC, particularly as it relates to cultural understanding of particular target sets, increased language capabilities, and increased skills to address particular intelligence problems. The Committee urges the IC to continue to work to improve its efforts in this regard.

The Committee supports the Director of Central Intelligence's (DCI) programs to improve diversity throughout the IC and encourages the DCI to place special attention on recruitment initiatives, retention programs, student programs, and management training. The Committee notes, however, the apparent lack of progress made by the IC with respect to improvements in the hiring, promotion, and retention of women and individuals from minority communities throughout the IC, particularly in senior ranks and in core mission areas. The Committee is concerned about a failure to improve in this area. Therefore, the Committee urges the DCI to refocus his efforts to increase among the IC population the diversity of skills, languages, talents, expertise, and people that is critical to the success of the IC's mission.

The Committee requests that the DCI submit a report no later than February 15, 2004, outlining the current program plan, including the IC's short term and long-term goals with respect to these issues. The report should also detail the progress that has been made by each element of the IC in implementing the current plan. The Committee has limited the use of a portion of the funds authorized to be appropriated to the Community Management Account until such time as the requested report has been provided to the Committee.

The Committee also requests that the DCI submit to the Committee any and all completed studies conducted within the CIA relating to hiring, promotion, or retention trends for women and individuals from minority communities.

*Information Technology and Information Management*

The tragedy of September 11th, the ensuing war in Afghanistan, Operation Iraqi Freedom, and recent studies and analyses demonstrate conclusively the importance of digital information sharing, electronic collaboration, and "horizontal integration" across sensor types and intelligence disciplines. These capabilities cannot be realized across the Intelligence Community (IC) and the operational arms of the Department of Defense (DOD) and the Central Intelligence Agency (CIA) without a thorough electronic "makeover" and a cultural revolution regarding access to information and personnel networking. The needed changes do not involve moving boxes around on an organization chart or feuding about authorities; the changes required, though "virtual," are nonetheless profound. The Committee has identified a number of issues that require serious IC leadership attention. Many of the issues that are addressed generally in the following six sections are more specifically addressed elsewhere in this report, or in the classified annex.

*Information Sharing Policies*

The Committee has, in the past several years and particularly since September 11, 2001, repeatedly noted the need for better data sharing among the various Intelligence Community (IC) agencies, organizations, and entities. In fact, the Director of Central Intelligence, during a hearing by the Joint Inquiry into the Terrorist Attacks of September 11 2001, stated “we also need systems that enable us to share critical information quickly across bureaucratic boundaries.” He went on to say, “Now, more than ever before, we need to make sure our customers get from us exactly what they need—which generally means exactly what they want—fast and free of unnecessary restrictions.”

The Committee notes that information sharing within the IC has improved since the terrorist attacks on the United States. Problems and “unnecessary restrictions,” however, continue to exist. Failure to share information across the IC is simply unacceptable. Nevertheless, the Committee understands fully the need for protecting sources and methods, but, believes that the protection of sources and methods can be managed sufficiently through the use of appropriate technological applications. Technical shortfalls in communications and collaboration systems are often cited as reasons for not being able to fully share information. Although the Committee understands the need to overcome such technical hurdles, it notes that with proper IC management and capital investments those technical limitations can be overcome. In this respect, the Committee is favorably impressed by, and supports the efforts of, the IC Chief Information Officer and the Assistant Secretary of Defense for Networks and Information Integration to jointly develop the communications and information technology infrastructure necessary to allow for a more robust information sharing technical architecture.

As part of correcting the technical limitations to information sharing, IC leadership should institute a program to share useful information management tools, capabilities and operating systems across the IC. For example, the IC has a great number of “analytic tool” developments and operational systems. These capabilities often provide unique solutions to unique needs. The Committee generally supports these initiatives. Often, however, such solutions may have a wide application across the IC, but, for whatever reason, are not shared with the other IC elements. Reasons for this include jeopardizing organic acquisitions, or, more likely, agency funding. This is an IC management failure and is indefensible.

More important than technological solutions to information sharing are the needs for updated policies to direct such sharing. IC management has not clarified sufficiently information sharing policies to all the IC agencies. As a result, information stagnates and perishes as a result of outdated directives or misperceptions about what information can or cannot be shared and with whom. There are simply too many examples of the need for improvements and clarifications of such policies to list here.

Suffice to say, the Committee strongly believes that the current situation cannot continue. Corrective measures must be undertaken immediately. To that end, the Committee requests the DCI to document the analytical needs of each agency and review all current IC information sharing policies to determine what corrections

must be made. This should include a review of the policies of individual IC agencies. Once this review is complete, the DCI should formulate and promulgate specific, written policy guidance to the IC that results in dramatically improved information sharing across the IC. The Committee requests periodic status updates on the progress being made in this regard. The Committee urges the DCI to complete this review by July 1, 2004.

#### *Data Tagging*

The Committee has learned that one of the most challenging impediments to finding, accessing, and retrieving information from, and across, the many Intelligence Community (IC) databases is the lack of data tagging. With respect to the IC, data tagging provides information, or the so-called 'metadata,' about collected, processed or exploited intelligence data or information. Timothy West, chairman of the Intelligence Community Metadata Working Group, has noted that "metadata is the key to sharing information." Since standardized metadata tagging can allow users to precisely, repeatedly, and accurately recall data, according to Mr. West, "the consumer can spend more time using the information and less time searching" for the information.

The Committee understands that many within the IC have come to the realization that data tagging has become an imperative. The Committee, however, is not aware of a formal IC-wide strategy for agreeing on a set of tagging standards. Nor is it certain that any policy decisions have been made or standards set for tagging both new data as it is collected, or the massive amounts of existing information currently in the many data repositories across the IC. In fact, the Committee has learned from many within the analysis community that one of the greatest analytic needs is for collected data to be tagged, at the point of collection, so that it can be discovered, more readily and with improved efficiency by analysts across the intelligence enterprise.

The Committee believes that the Director of Central Intelligence and the Secretary of Defense jointly should mandate metadata tagging standards for all components of the IC. Further, the Committee believes that the DCI should develop a plan to begin metadata tagging all IC collected information, at the point of collection, and to develop a plan for tagging all other archived data residing in Community databases. The Committee requests the DCI and the Secretary provide the congressional intelligence committees a briefing on their plans to tag collected information to improve analysis by January 30, 2004.

#### *Electronic Collaboration*

The importance of electronic collaboration between analysts, collectors, and operations personnel located far from one another requires no elaboration. Modern tools allow close interaction between peers and rapid shifts in the composition of networks in response to shifting priorities and crises. Exploiting fully the advantages of this technology necessitates changes in management. The practice of lengthy, hierarchical reviews of single agency reports to ensure quality and conformity must give way to an environment where personnel have more latitude and responsibility to create products

and take actions within a network of multi-intelligence discipline peers.

With respect to the collaboration tools themselves, the Committee is disappointed at the many reports it has received that the Joint Intelligence Virtual Architecture (JIVA) Joint Collaboration Environment (JCE) program is failing to live up to its earlier promise. By several accounts, JCE is not keeping up with the commercial marketplace and is not meeting the need for community-wide, seamless collaboration. Some years ago, the Committee endorsed the decision of the Assistant Secretary of Defense (Command, Control, Communication and Intelligence (ASD/C3I) to adopt Microsoft's NetMeeting for DoD's unclassified collaboration needs, and JCE as a compatible classified collaboration system. DoD is now shifting to a standards-based approach as the commercial marketplace has matured, whereby organizations can procure the collaboration tools that best meet their needs provided that compliance with the standard is proven through testing. If JCE is no longer the best avenue for advanced collaboration with full interoperability across the intelligence and operational communities, a new path should be charted. The DoD and IC CIOs, with guidance from the USD(I) and the DDCI/CM, must come to an agreement quickly on a strategy to achieve seamless collaboration throughout the IC on a time scale that matches the fielding of the Global Information Grid-Bandwidth Expansion (GIG-BE) and Intelligence Community System for Information Sharing (ICSIS). A summary of this strategy should be available to the congressional intelligence and defense committees by January 30, 2004.

#### *Horizontal Integration*

Networking the IC internally, and networking the IC with DoD's combatant commands is critical to support fast-moving military or law enforcement operations. If once the CIA might have questioned the need for the National Foreign Intelligence Program (NFIP) to provide extensive tactical support, the war on terrorism and the war in Iraq demonstrate clearly that the CIA is a significant consumer and producer of operational information.

The Committee requests that the DDCI/CM and the USD(I) produce at least an initial plan by May 15, 2004, to achieve integrated tasking and exploitation capabilities to support policy and operations, and report to the congressional intelligence and defense committees.

#### *Communications*

After years of complaining about the lack of coordination and effective planning for high-capacity, interoperable communications in the DoD and the IC, the Committee is gratified that excellent progress has been made over the last year and that the prospects for the future are bright. The IC CIO has a good plan for servicing the entire IC. The Assistant Secretary of Defense for Networks and Information Integration (NI2), likewise, has done an excellent job of rationalizing the Defense Information Systems Agency's (DISA) investment in a parallel fiber network, and as of this writing was on the verge of winning approval for a new pricing policy for DISA's services. Moreover, DoD and IC CIO planners appear to be converging on how to interconnect the two networks, to share band-

width, to achieve interoperability, and to maintain security. After years of needless delay, these decisions and agreements may finally allow the intelligence agencies and their consumers to move high volumes of data affordably, the prerequisite for network-centric operations.

#### *Counterterrorism Document Exploitation*

The Committee cannot overstate its view that it is critically important to rapidly exploit terrorism related documents and to make those documents available to counter-terrorism analysts across the community.

The Committee understands that seized or collected documents are initially reviewed for immediate threat information, and that there then is a determination to restrict further dissemination. The Committee notes that documents deemed restricted typically have value beyond explicit threat reporting and should therefore be provided to counter-terrorism analysts expeditiously.

The Committee requests that the Associate Director for Central Intelligence for Analysis and Production (ADCI A&P) provide the intelligence authorization committees with an assessment of the current state of document exploitation processing and analysis. This should include a review of materials that have not been released to all IC-wide terrorism analysts. The Committee expects this review to contain general information on what these materials are, when they were collected, who has them, and why the material has not been released for broader Intelligence Community analysis. Finally, the Committee requests the ADCI/A&P to develop a process for reviewing the status of DOCEX information sharing on a quarterly basis.

#### *Iraq: Lessons Learned to Strengthen Intelligence Capabilities to Counter Weapons of Mass Destruction*

Before and during the military conflict in Iraq, the Intelligence Community was asked to do many tough jobs. The dangerous work of intelligence officers continues today, and the Committee applauds the bravery, patriotism, and sacrifices of the personnel of the Intelligence Community leading up to and during Operation Iraqi Freedom. Now that regime change has occurred, however, the Committee believes a retrospective will be helpful in order to learn lessons regarding the effective execution of intelligence roles and missions before, during, and after the military conflict in Iraq.

The Committee has requested that the DCI conduct an after-action review of the IC's activities related to the Iraq conflict and provide a report to the Congressional oversight committees within one year of the enactment of this Act reviewing intelligence lessons learned as a result of Operation Iraqi Freedom. The DCI has been asked to include lessons relating to the tasking, collection, processing, exploitation, and dissemination of intelligence; accuracy, timeliness, and objectivity of intelligence analysis; intelligence support to policymakers and members of the Armed Forces in combat; coordination of intelligence activities and operations with military operations; strengths and limitations of intelligence systems and equipment; and other matters the Director deems appropriate. This request is entirely consistent with previous "after action" studies undertaken following past conflicts.

The Committee also believes a comprehensive effort is warranted to determine whether major new collection, analytical, and operational capabilities are needed to improve the US Intelligence Community's performance in combating the spread of WMD in the future. An after-action review is appropriate to ensure sensible investments are made in our future intelligence capabilities against WMD.

In the Committee's view, the current task for the IC is to try to figure out who has the WMD and how they got there. The Committee believes the IC must ensure that it focuses on the highest-priority national intelligence missions. These include the identification of the WMD infrastructure, determining the whereabouts of Saddam Hussein and key regime leadership, use of Iraqi territory as a sanctuary by terrorist groups, and strategic intelligence to support post-conflict reconstruction efforts to build a new, viable, and peaceful Iraq.

The Committee acknowledges that gathering intelligence related to WMD is difficult. Yet, the WMD challenges in Iran and North Korea, terrorist interest in WMD, and enforcement of international nonproliferation regimes are among the nation's most pressing intelligence and security issues. The Iraq conflict brings into sharp focus the need for a marshaling of intelligence resources for counterproliferation of WMD.

#### *EP-3E ARIES II Recapitalization*

The Committee is aware that the U.S. Navy's EP-3E ARIES II signals intelligence (SIGINT) reconnaissance fleet is rapidly reaching its end of service life. The Committee has learned that because of dramatically increased operations tempo rates in support of the global war on terrorism and Operation Iraqi Freedom, nearly one-half of the EP-3E aircraft may reach end of service life beginning in fiscal year 2004, with the remainder of the fleet by fiscal year 2009. Unfortunately, there is no program to replace these vital intelligence aircraft, and a replacement is late to need.

Dating back to 1992, the Congress has repeatedly urged the Department of Defense to develop a plan for replacing or integrating the Navy's EP-3 and the Air Force's RC-135 RIVET JOINT manned SIGINT reconnaissance aircraft. However, despite nearly two dozen various studies on this issue, there is no plan, no program and no dedicated funding for any effort to replace the aging EP-3s or to integrate the Navy operations with the Air Force. The Committee believes that, because of the imminent loss of the EP-3E aircraft, continued study or debate on this issue is no longer an option.

The Committee understands that the Navy is currently executing a contract to, once again, study options for replacing the EP-3 fleet. The Committee further understands that options under consideration include service life extension of the current aircraft, the Navy's future Multi-Mission Aircraft, the Army's future Aerial Common Sensor, and the Air Force's RC-135. The Committee believes that of the options available, the only choice that provides replacement aircraft in the near-term, has long-term service-life applicability beyond 2020, and that, most importantly, allows the integration of Navy and Air Force operators is the RC-135 option. The Committee understands that the Chief of Naval Operations

and the Chief of Staff of the Air Force agree that there is a great deal of synergy that could be achieved by integrating the Navy and Air Force operators on joint missions. The Committee agrees that side-by-side operations would bring the best operational concepts of both services to these Joint Staff-directed, theater-level, reconnaissance missions, and that this is an opportunity that should not be lost.

Further, the Committee understands that most vehement objections to this integrated mission approach have been focused on the need for naval fleet support and the cost of the RC-135 versus the EP-3. As for fleet support tasking, the Committee notes that the Navy's EP-3 aircraft are tasked in precisely the same manner, and by the same authorities, as are the RC-135 aircraft. Further, these two aircraft are fielded around the world in precisely the same locations, flying the same mission routes. With respect to the cost of the aircraft, the Committee understands that past cost comparisons of the two aircraft have not considered all direct and indirect costs, and, that in fact, when all factors are considered the two aircraft are not dramatically different in cost, particularly when the additional mission capacity of the RC-135 is factored into the calculus. Finally, the Committee understands that six to eight RC-135s could replace the 12 EP-3s now in service, and that the resulting smaller single fleet of aircraft would provide the same mission capability as today's two separate fleets. The logic of this approach appears overwhelming.

The Committee believes that the benefits of consolidated Air Force and Navy manned SIGINT reconnaissance operations are many, and therefore recommends \$180.0 million to begin replacing EP-3s with RC-135 aircraft.

Finally, the Committee understands that the Air Force Chief of Staff believes that new generation aircraft such as the Boeing 767 must be pursued for the long-term replacement of the RC-135. The Committee supports moving towards a more modern aircraft at the proper time and when the proper funding can be provided. When such a program can be logically pursued, the Committee directs that the consolidated mission approach outlined above must be continued.

*International Narcotics Trafficking and Other Transnational Organized Crime Threats to U.S. National Security*

The Committee is concerned about the level of resources and personnel being allocated to combatting the threats posed by international narcotics trafficking and other transnational organized crime, such as arms smuggling and money laundering. Given the clear and well-documented linkages between terrorist activity, narcotics trafficking, and other transnational organized crime in Colombia, Afghanistan, and North Korea, the Committee urges the DCI to identify and allocate sufficient additional IC personnel and funding to restore the IC's efforts in combatting transnational drug trafficking and other organized crime activities. These programs address significant threats to the country's national security and must have adequate personnel and funding in their own right. The Committee believes they deserve additional support and senior-level engagement. The Committee expects to see a reinvigorated strategy to combat narcotics trafficking and other transnational or-



ganized crime—with appropriate funding and personnel levels for the DCI's Crime and Narcotics Center (CNC)—in the Administration's FY 2005 budget submission.

*Options for Fort Ritchie, Maryland*

The Committee has noted the remarkable facility located at the recently closed Fort Ritchie, Maryland. Its proximity to Washington, D.C., within the pastoral vicinity of the Catoctin Mountains, makes it a location that the Committee believes should be strongly considered by the DCI, the Undersecretary of Defense for Intelligence, and the Director of the FBI, as the home of a future IC-wide College for Analytical Studies or IC-wide language training facility. The facilities can accommodate either or both of the endeavors suggested above. The facilities and the surrounding region easily could also provide an idyllic setting for IC conferences.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION

Title I—Intelligence Activities

*Section 101—Authorization of appropriations*

Section 101 lists the United States Government departments, agencies, and other elements for which the Act authorizes appropriations for intelligence and intelligence-related activities for fiscal year 2004.

*Section 102—Classified schedule of authorizations*

Section 102 makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2004 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President.

*Section 103—Personnel ceiling adjustments*

Section 103 authorizes the Director of Central Intelligence (DCI), with the approval of the Director of the Office of Management and Budget (OMB), in fiscal year 2004 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The DCI may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

*Section 104—Community Management Account*

Section 104 authorizes appropriations for the Community Management Account (CMA) of the DCI and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 2004.

Subsection (a) authorizes appropriations of \$192,640,000 for fiscal year 2004 for the activities of the CMA of the DCI. Subsection (a) also authorizes funds identified for advanced research and de-

velopment to remain available for two years. Subsection (c) explicitly authorizes the classified portion of the Intelligence Community Management Account.

Subsection (b) authorizes 320 full-time personnel for elements within the CMA for fiscal year 2004 and provides that such personnel may be permanent employees of the CMA element or detailed from other elements of the United States Government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits the additional funding amount to remain available through September 30, 2005.

Subsection (d) requires that, except as provided in section 113 of the National Security Act of 1947, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes \$34,248,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires the DCI to transfer these funds to the Department of Justice to be used for NDIC activities under the authority of the Attorney General, and subject to section 103(d)(1) of the National Security Act.

*Section 105—Intelligence elements of the Department of the Treasury*

Section 105 authorizes the establishment of a Bureau for Intelligence and Enforcement within the Treasury Department, headed by a Presidentially nominated and Congressionally approved Assistant Secretary. The Assistant Secretary of the Treasury for Intelligence and Enforcement would be appointed following consultations between the Treasury Secretary and the Director of Central Intelligence. The Bureau would consist of personnel drawn from Treasury's Office of Intelligence Support, the Office of Foreign Assets Control (OFAC), and the Financial Crimes Enforcement Network (FinCEN).

Given the findings of the 9/11 Joint Inquiry, the Committee is very interested in ensuring that there is full, appropriate, and timely sharing of information and analysis within the U.S. Government concerning the financial networks associated with international terrorism. Since the September 11, 2001 terrorist attacks, the U.S. Government has blocked the assets of over 260 individuals and groups supporting terrorist causes, and has frozen approximately \$120 million in terrorist assets.

There is currently no single office in the executive branch that is tasked by statute with ensuring that all elements of the intelligence and law enforcement communities cooperate and coordinate in the identification and the targeting of terrorist financial assets. The Committee is increasingly concerned that the Department of the Treasury needs to be more effective in articulating the counterterrorist financing mission to the public and in implementing the mission requirements from an intelligence sharing and/or operational perspective. Coordination on terrorist financing issues within Treasury Department units and between Treasury and the Intelligence Community is uneven and disjointed.

The Committee recognizes that the staffs of the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN) possess unique analytical capabilities on terrorist financial targets. However, the Treasury Department's access to Intelligence Community information needs to be enhanced, and Treasury's analytical products need to be more effectively coordinated and disseminated jointly with the Intelligence Community.

The Committee also wants to ensure that the requirements of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306) are met. Section 341 of the Act requires that the Director of Central Intelligence establish a Foreign Terrorist Asset Tracking Center (FTAT-C) within the CIA. Establishment of a Treasury Bureau of Intelligence and Enforcement should markedly strengthen FTAT-C's analytic capacity. Section 342 of the Intelligence Authorization Act for Fiscal Year 2003 also requires that the Secretary of the Treasury submit semi-annual reports concerning operations by the United States Government against terrorist financial networks. The first Section 342 report was due on February 1, 2003, but it was delivered to HPSCI on May 12, 2003. Following the establishment of a Bureau of Intelligence and Enforcement at the Treasury Department, the Committee expects that future Section 342 reports will provide a more timely and informative assessment of progress against terrorist financial targets.

#### Title II—Central Intelligence Agency Retirement and Disability System

##### *Section 201—Authorization of appropriations*

Section 201 authorizes appropriations in the amount of \$226,400,000 for fiscal year 2004 for the Central Intelligence Agency Retirement and Disability Fund.

#### Title III—General Provisions

##### SUBTITLE A—RECURRING GENERAL PROVISIONS

##### *Section 301—Increase in employee compensation and benefits authorized by law*

Section 301 provides that funds authorized to be appropriated by this Act for salary, pay, retirement and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

##### *Section 302—Restriction on conduct of intelligence activities*

Section 302 provides that the authorization of appropriations by the Act shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise permitted under the Constitution or authorized pursuant to the laws of the United States.

## SUBTITLE B—INTELLIGENCE

*Section 311—Modification of notice and wait requirements on projects to construct or improve intelligence community facilities*

Section 311 amends section 602(a) and section 602(b)(2) of the Intelligence Authorization Act for Fiscal Year 1995, Pub. L. No. 103–359 (Oct. 14, 1994) (50 U.S.C. 403–2b(a) and 403–2b(b) (2)), by increasing certain thresholds for Congressional notification and/or approval with respect to certain construction or renovation projects.

Subsection (a) raises the threshold for specific identification of a construction project in the President’s annual fiscal year budget request and specific authorization by Congress for such project from \$750,000 to \$5,000,000. The section also raises the standard for notification for any new construction from “\$500,000 to \$750,000” to “\$1,000,000 to \$5,000,000” and for renovations from \$500,000 to \$1,000,000. These adjustments take into account increases in construction costs—particularly those related to security and information technology—over the eight-plus years since enactment of the original section 602(a).

Subsection (b) amends section 602(b)(2) of the Intelligence Authorization Act for Fiscal Year 1995, Pub. L. No. 103–359 (Oct. 14, 1994) (50 U.S.C. 403–2b(b)(2)), to provide the Director of Central Intelligence and Secretary of Defense with authority to initiate within seven days (vice 21 days) of congressional notification unprogrammed construction projects in excess of the amount specified in section 602(a) of the Act. Section 311 amends section 602(b)(2) to provide an effective means by which the Intelligence Community may move forward with only a 7-day waiting period on certain construction projects, while keeping the appropriate committees of Congress fully apprised of such projects. In addition, the provision provides a separate authority, in emergency circumstances, to initiate construction immediately upon notification, notwithstanding the 7-day waiting period that would normally apply to such projects. This emergency authority is subject to a joint determination by the Director of Central Intelligence and the Secretary of Defense that “an emergency relating to the national security or the protection of health, safety, or environmental quality exists and that delay would harm any or all of those interests.” If the project primarily concerns the Central Intelligence Agency, subsection (b)(3) authorizes the Director of Central Intelligence to make the required determination unilaterally. The circumstances under which the exercise of this emergency authority are warranted will be rare, but under those circumstances, the expeditious start of such projects will be necessary to protect vital interests.

## SUBTITLE C—COUNTERINTELLIGENCE

*Section 321—Counterintelligence initiatives for the intelligence community*

Section 321 provides for several counterintelligence reform initiatives following the recommendations of the inter-agency damage assessment team that evaluated the U.S. Government’s management of the espionage case involving former FBI agent Robert Philip Hanssen.

Subsection (a) requires the DCI, through the Office of the National Counterintelligence Executive (NCIX), to establish and implement an inspection process for all U.S. Government agencies that handle classified information related to national security matters.

Subsection (b) requires the Attorney General, acting through the FBI Director, to establish an FBI Office of Counterintelligence to investigate potential espionage activities within the FBI.

Subsection (c) requires the DCI to establish and implement an annual review process for all elements of the Intelligence Community—not later than October 15th of each year—to ensure that only individuals who have a particularized “need to know” are continued on classified access distribution lists.

Subsection (d) requires the DCI, through the Office of the National Counterintelligence Executive (NCIX), to establish and implement a process by which all Intelligence Community agency heads direct that all employees submit financial disclosure forms required under section 1.3(b) of Executive order No. 12969 (August 2, 1995; 60 F.R. 40245), in order to be granted access to classified information.

Subsection (e) requires the DCI to establish and implement programs and procedures for all elements of the Intelligence Community by which sensitive classified information relating to human intelligence is properly safeguarded.

Subsection (f) requires the Attorney General, acting through the Justice Department’s Office of Intelligence Policy and Review and in consultation with the Office of the NCIX, to establish policies and procedures to assist the Attorney General’s consideration of intelligence and national security equities in the development of indictments and related pleadings in espionage prosecutions.

#### SUBTITLE D—OTHER MATTERS

##### *Section 331—Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office*

Section 331 extends for an indefinite period the suspension authorized in section 311 of the Intelligence Authorization Act for Fiscal Year 2002, Pub. L. No. 107–108 (Dec. 28, 2001), and extended by section 351 of the Intelligence Authorization Act for Fiscal Year 2003, Pub. L. No. 107–306 (Nov. 27, 2002). Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 suspended the provisions of the Intelligence Authorization Act for Fiscal Year 2001 (22 U.S.C. 7301 et seq.) that required reorganization of the Diplomatic Telecommunications Service Program Office (DTS–PO). Section 315 of this Act extends the suspension until 60 days after the appropriate congressional committees are notified by the Secretary of State or the Director of OMB, or the Director’s designees, that the present operating framework for the DTS–PO has been terminated.

##### *Section 332—Modifications of authorities on explosive materials*

Section 332 provides sufficient authority for the Director of Central Intelligence and the Secretary of Defense to conduct, respectively, authorized intelligence and military activities of the United States Government.

*Section 333—Modification of prohibition on the naturalization of certain persons*

Section 333 amends section 313(e)(4) of the Immigration and Nationality Act (8 U.S.C. 1424(e)(4)), bringing the provision into essential conformity with the determination process established in comparable provisions of law governing the admission or expedited naturalization of certain aliens and their immediate family members, based on the alien having contributed to the national security or intelligence mission of the United States. Under section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h), section 316(f) of the INA (8 U.S.C. 1427(f)), and section 305 of Pub. L. No. 104–293 (Oct. 11, 1996) (8 U.S.C. 1427 note), admission determinations regarding an alien’s national security or intelligence mission contribution are made by the Director of Central Intelligence, the Attorney General, and (formerly) the Commissioner of Immigration and Naturalization. Unlike those provisions, section 313(e)(4) requires consultation with the Secretary of Defense. This difference from comparable determination processes has created implementation difficulties. This amendment to section 313(e)(4) leaves the determination process to the Director of Central Intelligence, the Attorney General, and the Secretary of Homeland Security, reflecting the transfer of responsibility for adjudication of naturalization petitions from the Commissioner of Immigration and Naturalization to the Department of Homeland Security. See Homeland Security Act of 2002, Sec. 451(b)(2) Pub. L. No. 107–296 (Nov. 25, 2002). The Secretary of Defense may still request the naturalization of a particular alien by forwarding to the Director of Central Intelligence the names of aliens who have made a national security or intelligence contribution to the Department of Defense. Moreover, when Department of Defense activities are relevant to the determination, consultation with the Secretary of Defense would still be required.

*Section 334—Modification of definition of financial institution in the Right to Financial Privacy Act*

Section 334 provides enhanced authority for authorized Intelligence Community collection activities designed to prevent, deter, and disrupt counterintelligence activities directed against the United States. This section expands the definition of “financial institution” for purposes of section 1114 of the Right to Financial Privacy Act (12 U.S.C. 3414). Section 1114 currently permits government authorities engaged in counterintelligence activities to obtain certain financial records. The definition of “financial institution” in the Right to Financial Privacy Act—essentially unmodified since the Act became law in 1978—significantly excludes certain entities that provide financial services to the public. Financial records maintained by these entities are not covered by the Act and, thus, are not accessible by counterintelligence elements of the United States government under the Act, limiting the effectiveness of counterintelligence investigations. In order to expand the definition of “financial institution” for purposes only of section 1114, this subsection adopts, in part, the definition of “financial institution” found in section 5312(a)(2) of Title 31, United States Code. The expansion of this definition is consistent with the definition used in section 804(5) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 438).

*Section 335—Procedural requirements for Central Intelligence Agency relating to products of Federal Prison Industries*

Section 335 applies new procedural requirements with respect to the purchasing authorities granted to the Director of Central Intelligence. Subsection (a) requires the DCI to conduct market research to determine whether products manufactured by Federal Prison Industries (FPI) are comparable to products available from the private sector that best meet the CIA's needs in terms of price, quality, and time of delivery. Subsection (b) imposes a competition requirement on all products manufactured by FPI that are being considered for purchase by CIA officials. Under subsection (g), the DCI may apply this provision selectively, based on pre-existing legal obligations under the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.).

*Section 336—Improvement of information sharing among federal, State, and local government officials*

Section 336 authorizes the Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security, in consultation with the Director of Central Intelligence, to conduct two three-year pilot projects to improve the sharing of intelligence collected by the Federal government with state and local officials. These pilot projects are intended to complement efforts to implement the provisions of the Homeland Security Information Sharing Act.

The first pilot program should be designed to encourage state and local officials and representatives of industries that comprise the critical infrastructure to share lawfully collected information vital to the prevention of terrorist attacks in the United States with appropriate federal officials. The training provided to officials and representatives should help the officials to identify sources of potential threats; report information related to potential threats to the appropriate agencies in the appropriate form and manner; and assure reported information is systematically submitted to, and passed on by the Department of Homeland Security for use by the appropriate Federal agencies. A report is required which assesses the effectiveness of the project and makes recommendations on its continuation and ways to improve the effectiveness of information sharing among officials. The project does not grant new authorities for the collection of information.

The second pilot project should be designed to make intelligence information in the possession of the Department of Homeland Security available to State and local officials through the use of "tear-line" intelligence reports. The Under Secretary is required to submit a report to Congress which assesses the effectiveness of the use of "tear-line" reports in providing timely intelligence information to State and local authorities and whether permanent use of "tear-line" reports requires additional safeguards. The objective of this project is to ensure the timely flow of actionable intelligence that can be used by State and local officials to prevent terrorist attacks to the United States while protecting intelligence sources and methods.

Section 336 also authorizes the Director of Central Intelligence to establish a comprehensive orientation and training program for state and local officials in accessing and using available Intel-

ligence Community resources. In establishing such a program, the Director of Central Intelligence is required to consult and coordinate with the Director of the Federal Bureau of Investigation and the Secretary of Homeland Security on the development and administration of the program. The program should be designed with the goal of instructing state and local officials on the missions and roles of the Intelligence Community in an effort to promote better information sharing to prevent terrorist attacks. A report is required that assesses the effectiveness of the project, and makes recommendations on its continuation and steps to improve its effectiveness.

Section 336 also requires the Director of the Terrorist Threat Integration Center to establish two advisory councils. One council should provide advice and recommendations on privacy and civil liberties issues. The other council should provide advice and recommendations on state and local government information needs.

#### SUBTITLE E—REPORTS AND TECHNICAL AMENDMENTS

##### *Section 341—Extension of deadline for final report of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community*

Section 341 extends the deadline for the final report of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community from September 1, 2003 until September 1, 2004. This Commission was established in Title X of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 50 U.S.C. 401 note).

##### *Section 342—Modification of various reports required of intelligence community elements*

Section 342 changes two semi-annual statutory reporting requirements to annual requirements.

##### *Section 343—Technical amendments*

Section 343 makes technical corrections to several intelligence related provisions.

Subsections (a),(d) and (e) correct now-erroneous citations to section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7)). Section 103(c)(6) was redesignated section 103(c)(7) by section 901 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. No. 107–56 (Oct. 26, 2001), thus necessitating the technical correction made by this section.

Subsection (b) amends Section 15 of the Central Intelligence Agency Act of 1949 to reflect the reorganization of the functions previously performed by “special policemen of the General Services Administration” to “officers and agents of the Department of Homeland Security”. This section is a technical amendment incorporating in Section 15 of the CIA Act the modifications enacted as Section 1706(b)(1) of the Homeland Security Act of 2002, Pub. L. No. 107–296 (Nov. 25, 2002) (40 U.S.C. 1315).

Subsection (c) amends Section 11 of the National Security Agency Act of 1959, Pub. L. No. 86–36 (May 29, 1959) (50 U.S.C. 402 note), as amended by Section 506 of the Intelligence Authorization Act for



Fiscal Year 2002, Pub. L. No. 107–108 (Dec. 28, 2001), to reflect the reorganization of functions previously performed by “special policemen of the General Services Administration” to “officers and agents of the Department of Homeland Security”. This section is a technical amendment incorporating in Section 11 of the NSA Act the modifications enacted as Section 1706(b)(1) of the Homeland Security Act of 2002, Pub. L. No. 107–296 (Nov. 25, 2002) (40 U.S.C. § 1315).

Subsection (f) is a technical amendment to the Federal Information Security Management Act of 2002. Section 1001(b)(1) of the Homeland Security Act of 2002 and Section 301(b)(1) of the E-Government Act of 2002 amended Title 44, United States Code, to require an annual independent evaluation of information security programs. As enacted, only an Inspector General created by the Inspector General Act of 1978 or an independent external auditor may perform the evaluation required by these provisions. Section 312 clarifies that Inspectors General authorized by other statutes (e.g., Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q)) may also perform the required evaluation.

*Section 344—Report on lessons learned from military operations in Iraq*

Section 344 requires the Director of Central Intelligence (DCI) to report to the Congressional oversight committees on intelligence lessons learned as a result of the Iraq conflict. The report should include lessons learned relating to the tasking, collection, processing, exploitation, and dissemination of intelligence; accuracy, timeliness, and objectivity of intelligence analysis; intelligence support to policymakers and members of the Armed Forces in combat; coordination of intelligence activities and operations with military operations; strengths and limitations of intelligence systems and equipment; and other matters the DCI deems appropriate. In addition, the report should include recommendations on improving the aforementioned activities.

The committee believes that the Intelligence Community must engage in a comprehensive and candid assessment of its activities related to the Iraq conflict in order to better understand the strengths and weaknesses of its systems and processes. Such an understanding will allow the DCI to identify intelligence needs and to make the resource adjustments required to better position the Intelligence Community to meet future global challenges.

Title IV—Central Intelligence Agency

*Section 401—Protection from tort liability for certain Central Intelligence Agency personnel*

Section 401 clarifies that Central Intelligence Agency personnel designated by the Director of Central Intelligence under section 15(a) of the Central Intelligence Agency Act of 1949 (CIA Act) are afforded the same protection against common law tort liability (e.g., assault, battery, false arrest, negligence, etc.) that specified law enforcement officers and Diplomatic Security Service officers receive by virtue of section 627 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. No. 105–277 (Oct. 21, 1998), as amended by section 623 of the Treasury

and General Government Appropriations Act, 2000, Pub. L. No. 106–58 (Sept. 29, 1999) (28 U.S.C. 2671 note). Agency personnel designated under section 15(a) of the CIA Act of 1949 do not fall within the definition of “law enforcement officer” for purposes of section 627. Section 401 extends to such personnel the same protections afforded specified law enforcement officers and officers of the Diplomatic Security Services under section 627. Thus, while on official duty, designated personnel are deemed “within the scope of [their] office or employment” for purposes of the Federal Tort Claims Act or any other provision of law relating to tort liability, if such personnel

“take[] reasonable action, including the use of force, to—

- (1) protect an individual in the presence of the [personnel] from a crime of violence;
- (2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or
- (3) prevent the escape of any individual who the [personnel] reasonably believe[] to have committed in the presence of the [personnel] a crime of violence.”

See Section 627(b) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. No. 105–277 (Oct. 21, 1998), as amended by Section 623 of the Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106–58 (Sept. 29, 1999) (28 U.S.C. 2671 note). This provision does not affect the authorities of the Attorney General under the Federal Employees Liability Reform and Tort Compensation Act of 1988, Pub. L. No. 100–694 (Nov. 18, 1988) (“Westfall Act”) (28 U.S.C. 2679(d)(1)).

*Section 402—Repeal on limitation on use of funds in Central Services Working Capital Fund*

Section 402 modifies the Central Intelligence Agency Central Services Program (CSP) by removing the technically expired requirements of section 21(f)(2)(B) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u(f)(2)(B)). This subparagraph required the Director of Central Intelligence to obtain the approval of the Director of Office of Management and Budget (OMB) and to notify the Intelligence Committees before expending amounts in the CSP Working Capital Fund that are attributable to certain fees imposed and collected under the program. Although the CIA has continued to comply with the terms of this expired mandate, the approval and notification requirements set forth in the subparagraph are no longer necessary given the CIA experience using CSP authorities. Removing the requirement of subparagraph (f)(2)(b) will not deprive OMB of its oversight role with respect to the CSP. Sections 21(b)(2) and (d) of the CIA Act preserve the Director of OMB’s role in approving certain CSP activities. The CIA will continue to comply with other generally applicable reporting requirements, such as those in Title V of the National Security Act of 1947.

Title V—Department of Defense Intelligence Activities

*Section 501—Use of funds for counterdrug and counterterrorism activities for Colombia*

Section 501 authorizes the use of funds designated for intelligence and intelligence-related purposes for assistance to the Government of Colombia for counter-drug activities for fiscal years 2004 and 2005 (and any unobligated funds designated for such purposes from prior years) to be utilized to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue actions. This provision is intended to extend the authority previously granted in Title V of the FY2003 Intelligence Authorization Act through fiscal years 2004 and 2005.

*Section 502—Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency*

Section 502 allows the National Security Agency (NSA) to provide and pay for living quarters for Cooperative Education (Co-op) Program and Summer Program students to address an existing housing shortage. NSA would enter into a contract with a local real estate management company and seek to achieve economies of cost based on the number of apartment units rented and the duration of leases. The contractor would maintain the apartments and handle all leasing issues. While the housing program would be voluntary, given that a revolving pool of students are participating in the programs year-round, occupancy rates should remain steady, and the NSA student programs office would schedule students in a manner ensuring that the apartments would be filled for the full year. Summer Program students also would be able to take advantage of this allowance to further maximize the year-round use of the apartments.

NSA's Co-op Program provides the greatest return on investment of any Agency recruitment program. It is a critical tool that supports NSA's ongoing requirement to hire individuals with hard-to-find scientific and technical skills. Under the program, NSA obtains the critical services of up to 175 engineering and computer undergraduate science students (average GPA of 3.5) for a minimum of 52 weeks. Just as important, NSA obtains the benefit of their state-of-the-art training and gets to evaluate their skills in a real-world work setting. In return, these students have an unparalleled opportunity to learn about a career at NSA. This results in high levels of attraction and retention. Compared to other Federal agencies, NSA's retention rate is nearly twice the national average. Throughout this program's history, NSA has been able to retain more than 80% of its highly sought-after graduates. In an average year, the Co-op Program puts as many as 50 permanent hires with critically needed skills on the NSA payroll. For example, in FY 2002, over 97% of the Co-op students converted to full-time status. Currently, NSA has more than 600 former Co-op students permanently employed in critical positions. In July 2001, the National Association of Colleges and Employers identified NSA's Co-op Program as a "Best in Class" experiential education program.

NSA has experienced similar success with its Summer Employment Program. This program provides highly skilled and motivated temporary employees the opportunity to spend approximately 12 weeks working on projects in math, computer science, electrical and computer engineering, network evaluation, physical sciences, and intelligence analysis. The primary cost to NSA is the salaries for the students, and the benefit is that the Agency often receives a fresh perspective on difficult problems. On average, 105 students participate in the program each year. The students return to school and upon graduation, approximately 50% of eligible students join NSA. In FY 2002, 24 of 47 eligible participants accepted full-time employment. More than 76 former Summer Employment Program participants are now counted among the Agency workforce. In order for NSA to be effective in future skills markets, which are projected to be tight, NSA seeks an increased emphasis on student programs to bolster full-time hiring.

Student programs are essential for NSA to compete in the present highly-challenging labor market. The single biggest obstacle to the growth of NSA's Co-op and Summer Employment Programs is a lack of affordable short-term housing. More than 95% of the approximately 350 Co-op and Summer Program students recruited nationally to work at NSA each year come from out of the area, and nearly 100% of these students are in need of affordable, short-term housing. The local housing market provides little relief. Apartment vacancy rates in the area are at 1%, and local landlords simply have limited economic incentive to provide the type of short-term leases needed by Co-op and Summer Program students.

For years, NSA has relied on the student housing facilities at the University of Maryland Baltimore County campus (UMBC) to house its summer hires. Historically, UMBC has been the only facility in the local commuting area that could accommodate a large contingent of summer students (for example 106 for FY 2002). This year, however, UMBC was unable to meet NSA's demand for rooms. Based upon current trends, the availability of housing at UMBC is expected to become worse in the future.

NSA needs to ensure that it remains a competitive, prospective employer for students. This section would ensure that future students are not deterred from seeking a valuable and beneficial employment opportunity with NSA simply because of the unavailability of affordable, short-term housing.

*Section 503—Authority for intelligence community elements of Department of Defense to award personal service contracts*

Section 503 provides authority for Intelligence Community elements of the Department of Defense (DoD) to award personal services contracts, similar to the CIA's existing authority for personal services contracts under Section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(a)(1)). Intelligence Community elements of DoD frequently have a temporary need for additional personnel with specific expertise to meet unanticipated yet significant operational requirements requiring a bolstering of organizational and personnel efforts created by world events. Current examples include experts on al-Qa'ida, the countries of the Middle East, chemical and biological warfare, and Islamic militant personalities, along with linguists to support interrogation of detainees and re-

view of captured documents. Under current law, U.S. government agencies generally must choose between hiring additional personnel as government employees or contracting for their services under the restrictive provisions for the temporary or intermittent employment of experts and consultants under 5 U.S.C. 3109. This proposal will help to optimize the capabilities of Intelligence Community elements of the DoD in the performance of their roles in the global war on terrorism and in the execution of future national security missions.

*Section 504—Protection of certain National Security Agency personnel from tort liability*

Section 504 clarifies that National Security Agency personnel designated by the Director of the National Security Agency under section 11(a) of the National Security Agency Act of 1959 (NSA Act) are afforded the same protection against common law tort liability (e.g., assault, battery, false arrest, negligence, etc.) that specified law enforcement officers and Diplomatic Security Service officers receive by virtue of section 627 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. No. 105–277 (Oct. 21, 1998), as amended by section 623 of the Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106–58 (Sept. 29, 1999) (28 U.S.C. 2671 note). NSA personnel designated under section 11(a) of the NSA Act do not fall within the definition of “law enforcement officer” for purposes of section 627. Section 504 extends to such personnel the same protections afforded specified law enforcement officers and officers of the Diplomatic Security Services under section 627. Thus, while on official duty, designated personnel are deemed “within the scope of [their] office or employment” for purposes of the Federal Tort Claims Act or any other provision of law relating to tort liability, if such personnel

“take[] reasonable action, including the use of force, to—

- (1) protect an individual in the presence of the [personnel] from a crime of violence;
- (2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or
- (3) prevent the escape of any individual who the [personnel] reasonably believe[] to have committed in the presence of the [personnel] a crime of violence.”

See Section 627(b) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. No. 105–277 (Oct. 21, 1998), as amended by Section 623 of the Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106–58 (Sept. 29, 1999) (28 U.S.C. 2671 note). This provision does not affect the authorities of the Attorney General under the Federal Employees Liability Reform and Tort Compensation Act of 1988, Pub. L. No. 100–694 (Nov. 18, 1988) (“Westfall Act”) (28 U.S.C. 2679(d)(1)).

*Section 505—Measurement and signatures intelligence program*

Section 505 authorizes the Director of the Defense Intelligence Agency (DIA), acting through the DIA’s Directorate for Measurement and Signatures Intelligence (MASINT) and Technical Collection (DT), to establish a National Advisory Panel for MASINT Re-

search. The National Advisory Panel shall be established under the guidance of the Secretary of Defense. The DT's Director shall head the National Advisory Panel, and shall determine the selection, review and assessment of the MASINT research projects carried out under its program. The DT's Director shall appoint an advisory board to conduct the work of the National Advisory Panel. The term limit for each advisory board member should not exceed five consecutive years. The advisory board membership shall be comprised of representatives of MASINT community agencies, as well as representatives from the national weapons and science laboratories, universities, and the private sector. Its mission shall be to review and assess basic research on sensors and technologies conducted by the United States government as well as by non-governmental entities. The advisory board shall periodically make recommendations and findings to the Director on the status of approved MASINT project research. The National Advisory Panel shall protect intellectual rights, maintain organizational flexibility and recommend research projects, funding levels, and potential benefits in an equitable manner. The Committee intends that the National Advisory Panel's non-governmental representatives shall bear their own costs of participation.

#### COMMITTEE POSITION AND RECORDED VOTES TAKEN

On June 12, 2003, in open session, a quorum being present, the Permanent Select Committee on Intelligence, by a recorded vote of 16 ayes to 0 noes, approved the bill, H.R. 2417, as amended. By that vote, the Committee ordered the bill reported favorably to the House.

On that vote, the Members present recorded their votes as follows: Mr. Goss (Chairman)—aye; Mr. Bereuter—aye; Mr. Gibbons—aye; Mr. LaHood—aye; Mr. Cunningham—aye; Mr. Hoekstra—aye; Mr. Burr—aye; Mr. Everett—aye; Mr. Collins—aye; Ms. Harman—aye; Mr. Hastings—aye; Mr. Reyes—aye; Mr. Peterson—aye; Mr. Cramer—aye; Mr. Holt—aye; Mr. Ruppertsberger—aye.

#### ACTION OF OTHER COMMITTEES REGARDING PARTICULAR PROVISIONS

##### *Committee on the Judiciary*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, June 17, 2003.*

Hon. PORTER GOSS,  
*Chairman, Permanent Select Committee on Intelligence,  
House of Representatives, Washington, DC.*

DEAR CHAIRMAN GOSS: In recognition of the desire to expedite floor consideration of H.R. 2417, the intelligence authorization bill for fiscal year 2004, the Committee on the Judiciary hereby waives consideration of the bill with the understanding that you will continue to work with me on sections within the Committee on the Judiciary's jurisdiction and that for any of those sections on which we cannot reach a mutually agreeable resolution, you will remove them before enactment. I further understand that you will support

the Committee on the Judiciary's request for conferees on these sections.

The sections in the bill as reported that contain matters within the Committee on the Judiciary's Rule X jurisdiction are:

—104(e) (relating to funding for the Department of Justice's National Drug Intelligence Center);

—321 (relating to procedures for using classified information);

—332 (relating to the use of explosives by certain qualified aliens if they are in the United States to cooperate with the CIA or the United States military);

—333 (relating to the naturalization of certain persons);

—334 (relating to the types of financial institutions from which law enforcement can obtain financial records for criminal investigation purposes);

—335 (relating to certain aspects of the mandatory source rules for Federal Prison Industries as they relate to procurements by the Central Intelligence Agency);

—336 (relating to pilot projects to encourage the sharing of intelligence information between state and local officials and representatives of critical infrastructure industries on the one hand and federal officials on the other);

—401 (relating to giving certain employees of the Central Intelligence Agency the protections of the Federal Tort Claims Act when they take certain actions to prevent crime);

—504 (relating to giving certain employees of the National Security Agency the protections of the Federal Tort Claims Act when they take certain actions to prevent crime).

(These section numbers refer to the bill as reported.) Based on this understanding, I will not request a sequential referral based on their inclusion in the bill as reported.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in your Committee's report on H.R. 2417 and the Congressional Record during consideration of the legislation on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, June 16, 2003.*

Hon. F. JAMES SENSENBRENNER, Jr.,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding H.R. 2417, the intelligence authorization bill for fiscal year 2004. As you noted, several provisions of the bill as reported fall within the Rule X jurisdiction of the Committee on the Judiciary. I will continue to work with you on these sections. For any of these sections on which we cannot reach a mutually agreeable resolution, I will remove them before enactment. Further, I will support the

Committee on the Judiciary's request for conferees on these sections.

The sections of the bill as reported that contain matters within the Committee on the Judiciary's Rule X jurisdiction are:

—104(e) (relating to funding for the Department of Justice's National Drug Intelligence Center);

—321 (relating to procedures for using classified information);

—332 (relating to the use of explosives by certain qualified aliens if they are in the United States to cooperate with the CIA or the United States military);

—333 (relating to the naturalization of certain persons);

—334 (relating to the types of financial institutions from which law enforcement can obtain financial records for criminal investigation purposes);

—335 (relating to certain aspects of the mandatory source rules for Federal Prison Industries as they relate to procurements by the Central Intelligence Agency);

—336 (relating to pilot projects to encourage the sharing of intelligence information between state and local officials and representatives of critical infrastructure industries on the one hand and federal officials on the other);

—401 (relating to giving certain employees of the Central Intelligence Agency the protections of the Federal Tort Claims Act when they take certain actions to prevent crime);

—504 (relating to giving certain employees of the National Security Agency the protections of the Federal Tort Claims Act when they take certain actions to prevent crime).

(These section numbers refer to the bill as reported.) I appreciate your willingness to forgo consideration of the bill and not request a sequential referral based on this understanding.

I acknowledge that by agreeing to waive its consideration of the bill, the Committee on the Judiciary does not waive its jurisdiction over the bill or any of the matters under your jurisdiction. I will include a copy of your letter and this response in our Committee's report on H.R. 2417 and the *Congressional Record* during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

PORTER J. GOSS,  
*Chairman.*

*Committee on Financial Services*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, DC, June 17, 2003.*

Hon. PORTER J. GOSS,  
*Chairman, Select Committee on Intelligence,*  
*The Capitol, Washington, DC.*

DEAR CHAIRMAN GOSS: On June 12, 2003, the Select Committee on Intelligence ordered reported H.R. 2417, The Intelligence Authorization Act for Fiscal Year 2004. As you are aware, the bill as reported contained several provisions which fall within the jurisdiction of the Committee on Financial Services pursuant to the Com-



mittee's jurisdiction under Rule X of the Rules of the House of Representatives.

As you know, we continue to have strong concerns about some of these provisions, particularly those relating to the creation of a Bureau of Enforcement and Intelligence within the Department of the Treasury. However, because of your commitment to support my position regarding all of these provisions as the bill moves through the process and the need to move this legislation expeditiously, I will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 2417. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H.R. 2417 or related legislation.

Finally, I request that you include a copy of this letter and your response in the Select Committee's report on the bill, and that they be printed in the *Congressional Record* during the consideration of this legislation on the floor.

I appreciate your commitment to address my concerns as the process moves forward and willingness to work constructively toward common goals.

Sincerely,

MICHAEL G. OXLEY,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, June 17, 2003.*

Hon. MICHAEL G. OXLEY,  
*Chairman, Committee on Financial Services,  
Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN OXLEY: On June 12, 2003, the Select Committee on Intelligence ordered reported H.R. 2417, the "Intelligence Authorization Act for Fiscal Year 2004." The bill as reported contained several provisions which fall within the jurisdiction of the Committee on Financial Services, pursuant to the Committee's jurisdiction under Rule X of the Rules of the House of Representatives.

I am quite aware of, and sensitive to the specific concerns you raise about the inclusion of section 105 in H.R. 2417 concerning the establishment of a Bureau of Intelligence and Enforcement within the Department of the Treasury. Once again, I want to convey my personal commitment to work with you to resolve this issue to our common satisfaction and support your position in a conference with the Senate on the Intelligence Authorization bill.

I very much appreciate your willingness to waive consideration of H.R. 2417 by the Financial Services Committee. I acknowledge that, by agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 2417. I further recognize that the Committee on Financial Services

reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I will support a request by the Committee on Financial Services for conferees on H.R. 2417 or related legislation.

Finally, I am pleased to accommodate your request to include a copy of your letter and my response in the Select Committee's report on the bill, and that they be printed in the Congressional Record during the consideration of this legislation on the floor.

I appreciate your commitment to work together so as to achieve an appropriate and mutually satisfactory resolution of this important national security matter.

Sincerely,

PORTER J. GOSS,  
*Chairman.*

*Committee on Armed Services*

COMMITTEE ON ARMED SERVICES,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, June 18, 2003.*

Hon. PORTER J. GOSS,  
*Chairman, House Permanent Select Committee on Intelligence,  
Capitol, Washington, DC.*

DEAR CHAIRMAN GOSS: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004.

I recognize the importance of H.R. 2417 and the need for this legislation to move expeditiously. Therefore, while the committee is entitled to a jurisdictional claim on this legislation, I do not intend to request a sequential referral.

The Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. Additionally, I request that you include this letter as part of your committee's report on H.R. 2417.

Thank you for your cooperation in this matter.

Sincerely,

DUNCAN HUNTER,  
*Chairman.*

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HOUSE OF REPRESENTATIVES,  
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, June 18, 2003.*

Hon. DUNCAN HUNTER,  
*Chairman, Committee on Armed Services,  
Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN HUNTER: Thank you for your letter regarding H.R. 2417, the intelligence authorization bill for fiscal year 2004. As you noted, elements of the bill as reported fall within the Rule X jurisdiction of the Committee on Armed Services. I will continue to work with you on these sections. I will support the Committee on Armed Services' request for conferees on these sections.

I appreciate your willingness to forgo consideration of the bill and not request a sequential referral based on this understanding.

I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Armed Services does not waive its jurisdiction over the bill or any of the matters under your jurisdiction. I will include a copy of your letter and this response in our Committee's report on H.R. 2417 and the *Congressional Record* during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

PORTER J. GOSS,  
*Chairman.*

#### FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to clause 3(c)(4) of rule XIII of the House of Representatives, the Permanent Select Committee on Intelligence is not subject to this requirement; therefore, the Committee has not received a report from the Committee on Government Reform pertaining to the subject of this bill.

#### OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held 12 hearings and numerous briefings on the classified budgetary issues raised by H.R. 2417. Testimony was taken from senior officials of the Central Intelligence Agency; the DCI's Community Management Staff; the Department of Defense; the Defense Intelligence Agency; the National Security Agency; the National Reconnaissance Office; the National Imagery and Mapping Agency; the Departments of the Army, Navy, and Air Force; the Department of State; the Department of Treasury; the Department of Energy; the Department of Justice; the Federal Bureau of Investigation; the Department of Homeland Security; and the Coast Guard. Such testimony related to the activities and plans of the Intelligence Community covered by the provisions and authorizations, both classified and unclassified, of the Intelligence Authorization Act for Fiscal Year 2004. The bill, as reported by the Committee, reflects conclusions reached by the Committee in light of this oversight activity.

#### FISCAL YEAR COST PROJECTIONS

The Committee has attempted, pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, to ascertain the outlays that will occur in fiscal year 2004 and the five years following, if the amounts authorized are appropriated. These estimates are contained in the classified annex and are in accordance with those of the Executive Branch.

CONGRESSIONAL BUDGET OFFICE ESTIMATES  
 HOUSE OF REPRESENTATIVES,  
 PERMANENT SELECT COMMITTEE ON INTELLIGENCE,  
*Washington, DC, June 12, 2003.*

Dr. DOUGLAS HOLTZ-EAKIN,  
*Director, Congressional Budget Office,  
 Ford House Office Building, Washington, DC.*

DEAR DR. HOLTZ-EAKIN: In compliance with the Rules of the House of Representatives, I am writing to request a cost estimate of H.R. 2417, the "Intelligence Authorization Act for Fiscal Year 2004," pursuant to sections 308 and 403 of the Congressional Budget Act of 1974. I have attached a copy of the bill as approved by the House Permanent Select Committee on Intelligence earlier today.

As I hope to bring this legislation to the House floor in the very near term, I would very much appreciate an expedited response to this request by the CBO's staff. Should you have any questions related to this request, please contact Christopher Barton, the Committee's General Counsel. Thank you in advance for your assistance with this request.

Sincerely,

PORTER J. GOSS,  
*Chairman.*

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 16, 2003.*

Hon. PORTER J. GOSS,  
*Chairman, Permanent Select Committee on Intelligence,  
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Schmit.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 2417—Intelligence Authorization Act for Fiscal Year 2004*

Summary: H.R. 2417 would authorize appropriations for fiscal year 2004 for intelligence activities of the U.S. government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that implementing certain provisions of the bill would cost \$320 million over the 2004–2008 period, assuming appropriation of the specified and estimated amounts. CBO also estimates the bill would affect direct spending and receipts by an insignificant amount.

H.R. 2417 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of complying with these mandates would not exceed the thresholds established by that act (\$59 million for intergovernmental mandates and \$117 million for private-sector mandates in 2003, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 2417 is shown in the following table. CBO cannot obtain the necessary information to estimate the costs for the entire bill because parts are classified at a level above clearances held by CBO employees. For purposes of this estimate, CBO assumes that the bill will be enacted by October 1, 2003, and that the necessary amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION <sup>1</sup>						
Spending Under Current Law for Information Analysis and Infrastructure Protection and the Community Management Account: <sup>2</sup>						
Authorization Level .....	350	0	0	0	0	0
Estimated Outlays .....	330	108	21	4	0	0
Proposed Changes:						
Intelligence Community Management Account:						
Specified Authorization Level .....	0	193	0	0	0	0
Estimated Outlays .....	0	119	58	11	3	0
Information Sharing Among Federal, State, and Local Governments:						
Estimated Authorization Level .....	0	23	21	22	22	22
Estimated Outlays .....	0	19	22	22	21	22
Counterintelligence Initiatives:						
Estimated Authorization Level .....	0	3	5	5	5	6
Estimated Outlays .....	0	2	5	5	5	6
Total Changes:						
Estimated Authorization Level .....	0	218	27	27	27	28
Estimated Outlays .....	0	140	84	38	30	28
Spending Under H.R. 2417 for Information Analysis and Infrastructure Protection and the Community Management Account: <sup>1</sup>						
Estimated Authorization Level .....	350	218	27	27	27	28
Estimated Outlays .....	330	248	105	42	30	28

<sup>1</sup> In addition to effects on spending subject to appropriation, CBO estimates H.R. 2417 would have an insignificant effect on direct spending and receipts.

<sup>2</sup> The 2003 level is the amount appropriated for that year for the Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security and the Intelligence Community Management Account.  
Note.—Components may not sum to totals because of rounding.

**Spending subject to appropriation:** H.R. 2417 would specifically authorize the appropriation of \$193 million for the Intelligence Community Management Account, which funds the coordination of programs, budget oversight, and management of the intelligence agencies. The bill would earmark \$34 million for the National Drug Intelligence Center from the funds authorized for the Intelligence Community Management Account. In addition to the costs covered by the specified authorization, the bill contains several new provisions, primarily dealing with information sharing and counterintelligence initiatives, that CBO estimates would require additional appropriations of \$134 million over the 2004–2008 period to implement. CBO estimates that implementing these provisions would

cost \$320 million over the 2004–2008 period, assuming appropriation of the specified and estimated amounts.

Information sharing among Federal, State, and local governments. Section 336 would authorize the creation of several new programs to improve the sharing of information among federal, state, and local governments. Largest among these would be the Homeland Defender Intelligence Training Program, where the Director of Central Intelligence would establish a program to train qualified state and local officials in assessing and using available resources of the intelligence community. The cost of implementing this program would depend on the still-to-be-determined course curriculum and number of participants. Without information from the Central Intelligence Agency (CIA) on how this program would be implemented, CBO based its estimate on the cost of federal counterdrug training programs offered by the National Guard for state and local officials. Based on this analogy, CBO estimates the cost of implementing this new program would be about \$20 million a year and \$106 million over the 2004–2008 period. Costs would be slightly higher in the first year due to start-up costs.

Section 336 also would authorize two three-year pilot programs designed to improve information sharing among federal, state, and local officials. The first would authorize the Information Analysis and Infrastructure Protection Directorate of the Department of Homeland Security to train local officials to collect and report information to mitigate threats against critical infrastructure. The second pilot program would allow federal intelligence agencies to distribute certain modified intelligence reports to state and local officials. The cost of these pilot programs would depend on the number of cities chosen to participate and, in the case of the first pilot program, depend on the course curriculum and number of participants. CBO cannot estimate the budgetary impact of implementing these programs, however, since we lack sufficient information to estimate the cost.

Counterintelligence initiatives. Section 321 would direct the Director of Central Intelligence to establish programs and procedures for all federal agencies to help prevent the unauthorized disclosure of classified information. The cost of this initiative would depend on the degree to which existing federal agency resources and procedures for the monitoring and handling of classified materials are adopted. Absent information on how this program would be implemented, CBO based its estimate on the cost of security review programs carried out by the Department of Defense. Based on this analogy, CBO estimates that implementing this section would cost about \$5 million a year, after a one-year phase-in period, and about \$23 million over the 2004–2008 period.

Section 321 also would require all employees of the intelligence community who handle classified information to submit financial disclosure forms. This requirement was previously put forth in Executive Order Number 12968 (60 F.R. 40245). The status of the implementation of this requirement varies from agency to agency. Several agencies are already in full compliance, while others are still planning how they would implement the requirement. For those agencies not in compliance, there would be a cost to administering this provision, mainly for additional personnel needed to distribute and collect the forms. CBO cannot provide an estimate

of this provision, because the data needed for such an estimate, such as the number of affected personnel, are classified.

Codification and reorganization of certain intelligence agencies. Two sections of H.R. 2417 would create new intelligence organizations within the federal government. Section 105 would create the Bureau of Intelligence and Enforcement of the Department of the Treasury, and section 321 would create an Office of Counterintelligence within the Federal Bureau of Investigation. Based on information from the affected agencies, CBO believes these organizations would be created from existing offices and functions; therefore, any costs associated with creating these new organizations would be insignificant.

Measurement and signatures intelligence research program. Section 505 would create a new program within the Defense Intelligence Agency to incorporate the results of basic research on sensors into measurement and signatures intelligence systems. The Department of Defense and the intelligence community currently spend substantial amounts on research related to measurement and signatures intelligence. The cost of this new program would depend on the degree to which it generates new research programs and budget requirements above current levels. Until specific research and development projects are identified, CBO does not have enough information to estimate the costs of this section.

Direct spending and revenues: The bill would authorize \$226 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered mandatory, and the authorization under this bill would be the same as assumed in the CBO baseline. Thus, this estimate does not ascribe any additional cost to that provision.

Section 341 would extend by one year the National Commission for Review of Research and Development Programs of the U.S. Intelligence Community to continue its review of the status of research and development programs and activities within the intelligence community and report on its findings. The provision also would extend the commission's authority to accept and spend gifts. CBO estimates that enacting this provision would have no net effect on direct spending because it would allow the commission to spend any gifts that it collects. (Gifts and donations are recorded in the budget as revenues.)

Section 502 would allow the National Security Agency (NSA) to provide housing to students in its Student Educational Employment Program and charge the students a fee for this service, which NSA could spend without further appropriation. CBO estimates that the net result of the collection and expenditure of these proceeds would be insignificant.

Section 505 would establish an advisory panel to review and make recommendations on measurement and signatures intelligence programs. Under this provision, the Director of the Defense Intelligence Agency would be allowed to accept contributions to defray the expenses of the advisory panel. CBO estimates any contributions received under this section would be insignificant.

Estimated impact on State, local, and tribal governments: This bill contains three preemptions of state and local authority.

Section 332 could preempt states' power to regulate and restrict the possession and transportation of explosives; if so, it would be an intergovernmental mandate as defined in UMRA.

Section 341 would extend for one year the National Commission for the Review of the Research and Development Programs of the U.S. Intelligence Community. That commission has the power to subpoena testimony and evidence, which is an enforceable duty. Because this bill would extend the commission and its associated subpoena power, it also contains an intergovernmental mandate as defined in UMRA.

Sections 401 and 504 provide that personnel in the CIA and the NSA who are designated to carry firearms would be protected from any provision of law relating to tort liability for certain actions. These sections would preempt state laws related to tort liability and would limit the ability of state and local governments to seek damages against these personnel. Such preemptions and limitations are mandates under UMRA. The provision related to NSA personnel is more relevant to domestic laws, but according to NSA none of their personnel operating domestically have been sued to date. CBO has no basis for predicting how many such tort liability cases may occur over the next 10 years, but we consider it unlikely that any governmental entities would forgo significant damages as a result of these provisions.

CBO estimates that none of these mandates would impose significant costs on state, local, or tribal governments; thus the threshold for intergovernmental mandates (\$59 million in 2003, adjusted annually for inflation) would not be exceeded.

In addition, section 336 would authorize programs to improve information sharing among federal, state, and local government officials. These programs would benefit state and local governments by training their officials in the identification of potential threats and the use of available intelligence resources. It also would allow for the preparation of intelligence information in a way that it may be made available to state and local officials.

Estimated impact on the private sector: Section 334 provides enhanced authority for U.S. government authorities engaged in counterintelligence or foreign intelligence activities to obtain certain financial records by expanding the definition of "financial institution" in the Right to Financial Privacy Act. Financial records maintained by these additional entities are not covered by the act and, thus, are not accessible by counterintelligence and foreign intelligence elements of the U.S. government under the act. To the extent that responding to counterintelligence and foreign intelligence related requests for financial records imposes an administrative burden on the affected entities, this constitutes a private-sector mandate under UMRA.

Section 341 would extend for one year the National Commission for the Review of the Research and Development Programs of the U.S. Intelligence Community. That commission has the power to subpoena testimony and evidence, which is an enforceable duty. Because this bill would extend the commission and its associated subpoena power, it contains a private-sector mandate as defined in UMRA.

Sections 401 and 504 provide that certain personnel in the CIA and the NSA would be protected from any provision of law relating



to tort liability for certain actions. These sections would preempt laws related to tort liability and would limit the ability of private entities to seek damages against these personnel. CBO has no basis for predicting how many such tort liability cases may occur over the next 10 years, but we consider it unlikely that any private entities would forgo significant damages as a result of these provisions.

CBO estimates that the costs of these mandates would not exceed the threshold established in UMRA (\$117 for private-sector mandates in 2003, adjusted annually for inflation).

Previous CBO estimate: On May 15, 2003, CBO transmitted a cost estimate for the unclassified portion of S. 1025, the Intelligence Authorization Act for Fiscal Year 2004, as reported by the Senate Select Committee on Intelligence on May 8, 2003. The differences in the estimated costs reflect differences in the bills. In particular, S. 1025 would authorize \$198 million for the Intelligence Community Management Account, while H.R. 2417 would authorize \$193 million for that account. H.R. 2417 would also authorize new programs for information sharing and counterintelligence, which CBO estimates would require additional appropriations of about \$134 million over the 2004–2008 period.

Estimate prepared by: Federal costs: Matthew Schmit; impact on State, local, and tribal governments: Melissa Merrell; impact on the private sector: David Arthur.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMMITTEE COST ESTIMATES

The Committee agrees with the estimate of the Congressional Budget Office.

#### SPECIFIC CONSTITUTIONAL AUTHORITY FOR CONGRESSIONAL ENACTMENT OF THIS LEGISLATION

The intelligence and intelligence-related activities of the United States government are carried out to support the national security interests of the United States, to support and assist the armed forces of the United States, and to support the President in the execution of the foreign policy of the United States.

Article 1, section 8 of the Constitution of the United States provides, in pertinent part, that “Congress shall have power \* \* \* to pay the debts and provide for the common defence and general welfare of the United States; \* \* \*”; “to raise and support Armies, \* \* \*” “to provide and maintain a Navy; \* \* \*” and “to make all laws which shall be necessary and proper for carrying into execution \* \* \* all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

Therefore, pursuant to such authority, Congress is empowered to enact this legislation.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL SECURITY ACT OF 1947**

SHORT TITLE

That this Act may be cited as the "National Security Act of 1947".

TABLE OF CONTENTS

Sec. 2. Declaration of policy.  
\* \* \* \* \*

TITLE I—COORDINATION FOR NATIONAL SECURITY

Sec. 101. National Security Council.  
\* \* \* \* \*

Sec. 119. *Bureau of Intelligence and Enforcement of the Department of the Treasury.*  
\* \* \* \* \*

TITLE XI—OTHER PROVISIONS

Sec. 1102. *Counterintelligence initiatives.*  
\* \* \* \* \*

DEFINITIONS

SEC. 3. As used in this Act:

(1) \* \* \*  
\* \* \* \* \*

(4) The term "intelligence community" includes—  
(A) \* \* \*

\* \* \* \* \*

(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, **the Department of the Treasury,** the Department of Energy, and the Coast Guard;

(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; **and**

*(K) the Bureau of Intelligence and Enforcement of the Department of the Treasury; and*

**[(K)] (L)** such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

\* \* \* \* \*

TITLE I—COORDINATION FOR NATIONAL SECURITY

\* \* \* \* \*

APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

SEC. 106. (a) \* \* \*

- (b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—
- (1) \* \* \*
- (2) Paragraph (1) applies to the following positions:
- (A) \* \* \*

\* \* \* \* \*

(E) *The Assistant Secretary for Intelligence and Enforcement.*

\* \* \* \* \*

RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

\* \* \* \* \*

SEC. 112. (a) \* \* \*

(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall report **[semiannually]** *annually* to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

\* \* \* \* \*

(d) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

- (1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section **[103(c)(6)]** *103(c)(7)* of this Act; or

\* \* \* \* \*

BUREAU OF INTELLIGENCE AND ENFORCEMENT OF THE DEPARTMENT OF THE TREASURY

SEC. 119. (a) *IN GENERAL.*—*There is within the Department of the Treasury a Bureau of Intelligence and Enforcement headed by an Assistant Secretary for Intelligence and Enforcement, who shall be appointed by the President, by and with the advice and consent of the Senate.*

(b) *RESPONSIBILITIES.*—(1) *The Assistant Secretary for Intelligence and Enforcement shall oversee and coordinate functions of the Bureau of Intelligence and Enforcement.*

(2) *The Assistant Secretary shall report directly to the Secretary of the Treasury.*

(c) *COMPOSITION OF BUREAU.*—*The Bureau of Intelligence and Enforcement shall consist of the following offices:*

- (1) *The Office of Intelligence Support.*
- (2) *The Office of Foreign Assets Control.*
- (3) *The Financial Crimes Enforcement Network.*
- (4) *Such other offices as the Assistant Secretary may establish.*

\* \* \* \* \*

TITLE XI—ADDITIONAL MISCELLANEOUS PROVISIONS

\* \* \* \* \*

## COUNTERINTELLIGENCE INITIATIVES

**SEC. 1102. (a) INSPECTION PROCESS.**—(1) *In order to protect intelligence sources and methods from unauthorized disclosure, the Director of Central Intelligence shall establish and implement an inspection process for all agencies and departments of the United States that handle classified information relating to the national security of the United States intended to assure that those agencies and departments maintain effective operational security practices and programs directed against counterintelligence activities.*

(2) *The Director shall carry out the process through the Office of the National Counterintelligence Executive.*

(b) **FBI COUNTERINTELLIGENCE OFFICE.**—*The Attorney General, acting through the Director of the Federal Bureau of Investigation, shall establish an Office of Counterintelligence within the Bureau to investigate potential espionage activities within the Bureau.*

(c) **ANNUAL REVIEW OF DISSEMINATION LISTS.**—(1) *The Director of Central Intelligence shall establish and implement a process for all elements of the intelligence community (as defined in section 101(4)) to review, on an annual basis, individuals included on distribution lists for access to classified information. Such process shall ensure that only individuals who have a particularized “need to know” (as determined by the Director) are continued on such distribution lists.*

(2) *Not later than October 15 of each year, the Director shall certify to the congressional intelligence committees that the review required under paragraph (1) has been conducted in all elements of the intelligence community during the preceding fiscal year.*

(d) **REQUIRED COMPLETION OF FINANCIAL DISCLOSURE STATEMENTS.**—(1) *The Director of Central Intelligence shall establish and implement a process by which heads of the elements of the intelligence community (as defined in section 101(4)) direct that all employees, in order to be granted access to classified information, submit financial disclosure forms required under section 1.3(b) of Executive Order No. 12969 (August 2, 1995; 60 F.R. 40245; 50 U.S.C. 435 note).*

(2) *The Director shall carry out paragraph (1) through the Office of the National Counterintelligence Executive.*

(e) **ARRANGEMENTS TO HANDLE SENSITIVE INFORMATION.**—*The Director of Central Intelligence shall establish, for all elements of the intelligence community (as defined in section 101(4)), programs and procedures by which sensitive classified information relating to human intelligence is safeguarded against unauthorized disclosure by employees of those elements.*

\* \* \* \* \*

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**SECTION 5315 OF TITLE 5, UNITED STATES CODE**
**§ 5315. Positions at level IV**

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

\* \* \* \* \*

Assistant Secretaries of the Treasury [(7)] (8).

\* \* \* \* \*

**SECTION 602 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995**

**SEC. 602. 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 **[\$750,000]** \$5,000,000 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 **[\$500,000]** \$1,000,000 but less than **[\$750,000]** \$5,000,000, or where any improvement project to such a facility has an estimated Federal cost greater than **[\$500,000]** \$1,000,000 but less than \$5,000,000, the Director of Central Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

(b) EXCEPTION.—

(1) \* \* \*

(2) REPORT.—When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of Central Intelligence jointly shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (A) the justification for the project and the current estimate of the cost of the project, (B) the justification for carrying out the project under this subsection, and (C) 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 **[21-day]** 7-day period beginning on the date the notification is received by such committees. *Notwithstanding the preceding provisions of this paragraph, when the Director of Central Intelligence and Secretary of Defense jointly determine that an emergency relating to the national security or to the protection of health, safety, or environmental quality exists and that delay would irreparably harm any or all of those interests, the project may begin on the date the notification is received by such committees.*

\* \* \* \* \*

**SECTION 311 OF THE INTELLIGENCE AUTHORIZATION  
ACT FOR FISCAL YEAR 2002**

**SEC. 311. [TWO-YEAR] SUSPENSION OF REORGANIZATION OF DIPLO-  
MATIC TELECOMMUNICATIONS SERVICE PROGRAM OF-  
FICE.**

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and [ending on October 1, 2003] *ending on the date that is 60 days after the date on which appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary's designee) and the Director of the Office of Management and Budget (or the Director's designee) that the operational framework for the office has been terminated.*

**SECTION 313 OF THE IMMIGRATION AND NATIONALITY  
ACT**

PROHIBITION UPON THE NATURALIZATION OF PERSONS OPPOSED TO  
GOVERNMENT OR LAW, OR WHO FAVOR TOTALITARIAN FORMS OF  
GOVERNMENT

SEC. 313. (a) \* \* \*

\* \* \* \* \*

(e) A person may be naturalized under this title without regard to the prohibitions in subsections (a)(2) and (c) of this section if the person—

(1) \* \* \*

\* \* \* \* \*

(4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense *when Department of Defense activities are relevant to the determination*, and with the concurrence of the Attorney General *and the Secretary of Homeland Security*, to have made a contribution to the national security or to the national intelligence mission of the United States.

**RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

TITLE XI—RIGHT TO FINANCIAL PRIVACY

\* \* \* \* \*

DEFINITIONS

SEC. 1101. For the purpose of this title, the term—

(1) “financial institution”, *except as provided in section 1114*, means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings association, building and loan, or homestead association

(including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

\* \* \* \* \*

SPECIAL PROCEDURES

SEC. 1114. (a) \* \* \*

\* \* \* \* \*

*(c) For purposes of this section, the term "financial institution" has the same meaning as in section 5312(a)(2) of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the United States Virgin Islands.*

\* \* \* \* \*

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**CENTRAL INTELLIGENCE AGENCY ACT OF 1949**

\* \* \* \* \*

SEC. 6. In the interests of the security of the foreign intelligence activities of the United States and in order further to implement section [103(c)(6)] 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2, chapter 795 of the Act of August 28, 1935 (49 Stat. 956, 957; 5 U.S.C. 654), and the provisions of any other laws which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Office of Management and Budget shall make no reports to the Congress in connection with the Agency under section 607, title VI, chapter 212 of the Act of June 30, 1945, as amended (5 U.S.C. 947(b)).

\* \* \* \* \*

SECURITY PERSONNEL AT AGENCY INSTALLATIONS

SEC. 15. (a)(1) The Director may authorize Agency personnel within the United States to perform the same functions as [special policemen of the General Services Administration perform under the first section of the Act entitled "An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes" (40 U.S.C. 318),] *officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code, with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—*

(A) \* \* \*

\* \* \* \* \*

(b) The Director is authorized to establish penalties for violations of the rules or regulations promulgated by the Director under subsection (a) of this section. Such penalties shall not exceed those specified in [the fourth section of the Act referred to in subsection (a) of this section (40 U.S.C. 318c)] *section 1315(c)(2) of title 40, United States Code.*

\* \* \* \* \*

(d)(1) *Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a) shall be deemed for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment if the Agency personnel take reasonable action, which may include the use of force, to—*

(A) *protect an individual in the presence of the Agency personnel from a crime of violence;*

(B) *provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or*

(C) *prevent the escape of any individual whom the Agency personnel reasonably believe to have committed a crime of violence in the presence of such personnel.*

(2) *In this subsection, the term “crime of violence” has the meaning given that term in section 16 of title 18, United States Code.*

\* \* \* \* \*

CENTRAL SERVICES PROGRAM

SEC. 21. (a) \* \* \*

\* \* \* \* \*

(f) FEES.—(1) \* \* \*

(2) [(A) Subject to subparagraph (B), the Director] *The Director may obligate and expend amounts in the Fund that are attributable to the fees imposed and collected under paragraph (1) to acquire equipment or systems for, or to improve the equipment or systems of, central service providers and any elements of the Agency that are not designated for participation in the program in order to facilitate the designation of such elements for future participation in the program.*

[(B) The Director may not expend amounts in the Fund for purposes specified in subparagraph (A) in fiscal year 1998, 1999, or 2000 unless the Director—

[(i) secures the prior approval of the Director of the Office of Management and Budget; and

[(ii) submits notice of the proposed expenditure to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.]

\* \* \* \* \*



PROCEDURAL REQUIREMENTS FOR CENTRAL INTELLIGENCE AGENCY  
RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES

SEC. 23. (a) *MARKET RESEARCH.*—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the Director shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the Agency's needs in terms of price, quality, and time of delivery.

(b) *COMPETITION REQUIREMENT.*—If the Director determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Agency's needs in terms of price, quality, and time of delivery, the Director shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Director shall consider a timely offer from Federal Prison Industries.

(c) *IMPLEMENTATION BY DIRECTOR.*—The Director shall ensure that—

(1) the Agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the Agency determines that the product or service is comparable to products or services available from the private sector that best meet the Agency's needs in terms of price, quality, and time of delivery; and

(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Agency.

(d) *MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.*—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Agency's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

(e) *PERFORMANCE AS A SUBCONTRACTOR.*—(1) A contractor or potential contractor of the Agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the Agency by any means, including means such as—

(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

(2) In this subsection, the term "contractor", with respect to a contract, includes a subcontractor at any tier under the contract.

(f) *PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.*—*The Director may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—*

- (1) *any data that is classified;*
- (2) *any geographic data regarding the location of—*
  - (A) *surface and subsurface infrastructure providing communications or water or electrical power distribution;*
  - (B) *pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or*
  - (C) *other utilities; or*
- (3) *any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.*

(g) *APPLICATION OF PROVISION.*—*This section is subject to the preceding provisions of this Act, and shall not be construed as affecting any right or duty of the Director under those provisions.*

(h) *DEFINITIONS.*—*In this section:*

- (1) *The terms “competitive procedures” and “procurement” have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).*
- (2) *The term “market research” means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—*
  - (A) *contacting knowledgeable individuals in government and industry;*
  - (B) *interactive communication among industry, acquisition personnel, and customers; and*
  - (C) *interchange meetings or pre-solicitation conferences with potential offerors.*

**HOMELAND SECURITY ACT OF 2002**

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

(a) \* \* \*

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

Sec. 1. Short title; table of contents.	*	*	*	*	*	*	*
TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION	*	*	*	*	*	*	*
Subtitle C—Information Security							
Sec. 221. Procedures for sharing information.	*	*	*	*	*	*	*
Sec. 226. Pilot project to test use of tear-line intelligence reports.	*	*	*	*	*	*	*

**SEC. 226. PILOT PROJECT TO TEST USE OF TEAR-LINE INTELLIGENCE REPORTS.**

(a) *AUTHORITY.*—*The Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security, in consultation with the Director of Central Intelligence, may carry out a pilot program under which the Under Secretary may*

make intelligence information in the possession of the Department available to officials of State and local governments through the use of tear-line intelligence reports.

(b) *TEAR-LINE INTELLIGENCE REPORTS DESCRIBED.*—For purpose of this section, a tear-line report is a report containing intelligence gathered by an agency or department of the United States that is in the possession of the Department that is prepared in a manner such that information relating to intelligence sources and methods is easily severable from the report to protect such sources and methods from disclosure. Such a report may be in a paper or an electronic format.

(c) *DURATION OF PROJECT.*—The Under Secretary shall carry out the pilot project under this section for a period of 3 years.

(d) *REPORTS TO CONGRESS.*—Not later than 1 year after the implementation of the pilot project, and annually thereafter, the Under Secretary shall submit to Congress a report on the pilot project conducted under this section, and shall include in the report an assessment of—

(1) the effectiveness of the use of the tear-line reports in providing intelligence information on a timely basis to State and local authorities; and

(2) if the use of such tear-line reports were to be made permanent, whether additional safeguards are needed with respect to the use of such reports.

(e) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Under Secretary such sums as may be necessary to carry out this section.

\* \* \* \* \*

**TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle I—Information Sharing**

\* \* \* \* \*

**SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.**

(a) \* \* \*

\* \* \* \* \*

(c) **SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.**—

(1) \* \* \*

\* \* \* \* \*

(3)(A) *The Under Secretary for Information Analysis and Infrastructure Protection of the Department of Homeland Security, in consultation with the Director of Central Intelligence,*

may conduct projects in several cities to encourage officials of State and local government, as well as representatives of industries that comprise the critical infrastructure in those cities to lawfully collect and to pass on to the appropriate Federal officials information vital for the prevention of terrorist attacks against the United States.

(B) The Director of Central Intelligence shall carry out any duty under this paragraph through the Director of the Terrorist Threat Integration Center.

(C) Under the projects, training shall be provided to such officials and representatives to—

(i) identify sources of potential threats through such methods as the Secretary determines appropriate;

(ii) report information relating to such potential threats to the appropriate Federal agencies in the appropriate form and manner; and

(iii) assure that all reported information is systematically submitted to and passed on by the Department for use by appropriate Federal agencies.

(D) The Under Secretary shall carry out the pilot project under this paragraph for a period of 3 years.

(E) Not later than 1 year after the implementation of the pilot project, and annually thereafter, the Under Secretary shall submit to Congress a report on the pilot project conducted under this paragraph. Each such report shall include—

(i) an assessment of the effectiveness of the project; and

(ii) recommendations on the continuation of the project as well as any recommendations to improve the effectiveness of information collection and sharing by such officials and representatives and the Federal government.

\* \* \* \* \*

**INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR  
2003**

\* \* \* \* \*

**TITLE III—GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle E—Terrorism**

\* \* \* \* \*

**SEC. 343. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.**

(a) \* \* \*

\* \* \* \* \*

(c) INFORMATION SHARING.—Subject to [section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))] *section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(7))*, relating to the protection of intelligence sources and methods, the Director shall provide for the sharing of the list, and infor-

mation on the list, with such departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations as the Director considers appropriate.

\* \* \* \* \*

(e) REPORT ON CRITERIA FOR INFORMATION SHARING.—(1) \* \* \*

(2) The report shall include a description of the circumstances in which the Director has determined that sharing information on the list with the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) would be inappropriate due to the concerns addressed by section **[103(c)(6)] 103(c)(7)** of the National Security Act of 1947, relating to the protection of sources and methods, and any instance in which the sharing of information on the list has been inappropriate in light of such concerns.

\* \* \* \* \*

## TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

### SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities **[for fiscal years 2002 and 2003]** *for each of fiscal years 2002 through 2005*, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

\* \* \* \* \*

(d) APPLICATION OF CERTAIN PROVISIONS OF LAW.—**[Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002,]** *Section 553 and the certification requirements of section 564(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003 (division E of Public Law 108–7; 117 Stat. 200, 205), and section 8093 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1558; 10 U.S.C. 182 note)*, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

**[(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—**No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting

in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.]

*(e) PROHIBITION.—No United States Armed Forces personnel, United States civilian employee or contractor engaged by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting to protect the life or the physical security of others, in self defense, or during the course of search and rescue operations.*

\* \* \* \* \*

## TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

\* \* \* \* \*

### SEC. 1007. FINAL REPORT; TERMINATION.

(a) FINAL REPORT.—Not later than September 1, [2003] 2004, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

\* \* \* \* \*

### SECTION 721 OF THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

#### SEC. 721. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) \* \* \*

(b) SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees and the congressional leadership on [a semiannual] *an annual* basis on the dates provided in section 507 of the National Security Act of 1947.

\* \* \* \* \*

### SECTION 11 OF THE NATIONAL SECURITY AGENCY ACT OF 1959

SEC. 11. (a)(1) The Director of the National Security Agency may authorize agency personnel within the United States to perform the same functions as [special policemen of the General Services Administration perform under the first section of the Act entitled “An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes” (40 U.S.C. 318)] *officers and agents of the Department of Homeland Security, as provided in section 1315(b)(2) of title 40, United States Code,*

with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

(A) \* \* \*

\* \* \* \* \*

(b) The Director of the National Security Agency is authorized to establish penalties for violations of the rules or regulations prescribed by the Director under subsection (a). Such penalties shall not exceed those specified in [the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c)] *section 1315(c)(2) of title 40, United States Code.*

\* \* \* \* \*

(d)(1) *Notwithstanding any other provision of law, agency personnel designated by the Director of the National Security Agency under subsection (a) shall be considered for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such agency personnel take reasonable action, which may include the use of force, to—*

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

(B) *provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or*

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

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

(3) *In this subsection, the term "crime of violence" has the meaning given that term in section 16 of title 18, United States Code.*

**SECTION 201 OF THE ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002**

**SEC. 201. INTERIM MEASURES FOR ACCESS TO AND COORDINATION OF LAW ENFORCEMENT AND OTHER INFORMATION.**

(a) \* \* \*

\* \* \* \* \*

(c) COORDINATION PLAN.—

(1) \* \* \*

\* \* \* \* \*

(3) PROTECTIONS REGARDING INFORMATION AND USES THEREOF.—The plan under this subsection shall establish conditions for using the information described in subsection (b) received by the Department of State and Immigration and Naturalization Service—

(A) \* \* \*

\* \* \* \* \*

(F) in a manner that protects the sources and methods used to acquire intelligence information as required by [section 103(c)(6) of the National Security Act of 1947 (50

U.S.C. 403-3(c)(6)] *section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(7)).*

\* \* \* \* \*

**TITLE 44, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY**

\* \* \* \* \*

**SUBCHAPTER II—INFORMATION SECURITY**

\* \* \* \* \*

**§ 3535. Annual independent evaluation**

(a) \* \* \*

(b) Subject to subsection (c)—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978 *or any other law*, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

\* \* \* \* \*

**SUBCHAPTER III—INFORMATION SECURITY**

\* \* \* \* \*

**§ 3545. Annual independent evaluation**

(a) \* \* \*

(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978 *or any other law*, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

\* \* \* \* \*

**TITLE 10, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle A—General Military Law**

**PART I—ORGANIZATION AND GENERAL MILITARY POWERS**

\* \* \* \* \*

**CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS**

\* \* \* \* \*



SUBCHAPTER I—GENERAL MATTERS

Sec.

421. Funds for foreign cryptologic support.

\* \* \* \* \*

426. *Personal services contracts: authority and limitations.*

\* \* \* \* \*

**§ 426. Personal services contracts: authority and limitations**

(a) *PERSONAL SERVICES.*—(1) *The Secretary of Defense may, notwithstanding section 3109 of title 5, enter into personal services contracts in the United States if the personal services directly support the mission of a defense intelligence component or counter-intelligence organization.*

(2) *The contracting officer for a personal services contract shall be responsible for ensuring that a personal services contract is the appropriate vehicle for carrying out the purpose of the contract.*

(b) *DEFINITION.*—*In this section, the term “defense intelligence component” means a component of the Department of Defense that is an element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

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**PART III—TRAINING AND EDUCATION**

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**CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION**

\* \* \* \* \*

**§ 2195. Department of Defense cooperative education programs**

(a) \* \* \*

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(d)(1) *The Director of the National Security Agency may provide a qualifying employee of a defense laboratory of that Agency with living quarters at no charge, or at a rate or charge prescribed by the Director by regulation, without regard to section 5911(c) of title 5.*

(2) *In this subsection, the term “qualifying employee” means a student who is employed at the National Security Agency under—*

(A) *a Student Educational Employment Program of the Agency conducted under this section or any other provision of law; or*

(B) *a similar cooperative or summer education program of the Agency that meets the criteria for Federal cooperative or summer education programs prescribed by the Office of Personnel Management.*

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