

105TH CONGRESS  
1ST SESSION

# H. R. 235

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mrs. MALONEY of New York (for herself and Mr. HORN) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on Intelligence (Permanent Select), and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals.

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

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “War Crimes Disclosure  
5 Act”.

1 **SEC. 2. REQUIREMENT OF DISCLOSURE UNDER FOIA OF IN-**  
2 **FORMATION REGARDING INDIVIDUALS WHO**  
3 **COMMITTED NAZI WAR CRIMES.**

4 (a) IN GENERAL.—Section 552 of title 5, United  
5 States Code, is amended—

6 (1) by redesignating subsections (d), (e), and  
7 (f) as subsections (e), (f), and (g), respectively; and

8 (2) by inserting after subsection (c) the follow-  
9 ing new subsection:

10 “(d)(1)(A) Notwithstanding subsection (b), this sec-  
11 tion shall apply to any matter, in the possession or control  
12 of a specified agency, that relates to any individual as to  
13 whom there exists reasonable grounds to believe that such  
14 individual, during the period beginning on March 23,  
15 1933, and ending on May 8, 1945, under the direction  
16 of, or in association with—

17 “(i) the Nazi government of Germany,

18 “(ii) any government in any area occupied by  
19 the military forces of the Nazi government of Ger-  
20 many,

21 “(iii) any government established with the as-  
22 sistance or cooperation of the Nazi government of  
23 Germany, or

24 “(iv) any government which was an ally of the  
25 Nazi government of Germany,

1 ordered, incited, assisted, or otherwise participated in the  
2 persecution of any person because of race, religion, na-  
3 tional origin, or political opinion.

4 “(B) For purposes of subparagraph (A), the term  
5 ‘specified agency’ means the following entities, any prede-  
6 cessor of such an entity, and any component of such an  
7 entity (or of such a predecessor):

8 “(i) The Central Intelligence Agency.

9 “(ii) The Department of Defense.

10 “(iii) The National Security Agency.

11 “(iv) The National Security Council.

12 “(v) The Department of State.

13 “(vi) The Federal Bureau of Investigation.

14 “(vii) The United States Information Agency.

15 “(2) Paragraph (1) shall not apply to—

16 “(A) any matter that is referred to in sub-  
17 section (b)(6);

18 “(B) any matter the disclosure of which  
19 would—

20 “(i) reveal an intelligence agent regarding  
21 whom there is clear and convincing evidence  
22 that the identity of such agent currently re-  
23 quires protection;

1           “(ii) by revealing the name or identity of  
2           a living person who provided confidential infor-  
3           mation to the United States, constitute a sub-  
4           stantial risk of harm to such person (as deter-  
5           mined by clear and convincing evidence); or

6           “(iii) compromise the existence of an un-  
7           derstanding of confidentiality currently requir-  
8           ing protection between an agent of the Govern-  
9           ment and a cooperating individual or a foreign  
10          government, and (as determined by clear and  
11          convincing evidence) cause harm that substan-  
12          tially outweighs the public interest in the disclo-  
13          sure;

14          “(C) any matter regarding which there is clear  
15          and convincing evidence that the current or future  
16          threat to national security, military defense, intel-  
17          ligence operations, or the conduct of foreign rela-  
18          tions of the United States substantially outweighs  
19          the public interest in disclosure of the matter;

20          “(D) any matter created (by any person) in  
21          connection with an investigation, inquiry, or prosecu-  
22          tion by the Office of Special Investigations of the  
23          Department of Justice; or

24          “(E) any portion, of any matter, that—

1 “(i) does not relate to any individual re-  
2 ferred to in paragraph (1); and

3 “(ii) is reasonably segregable from any  
4 other portions of the matter that relate to an  
5 individual referred to in paragraph (1).

6 “(3) Any reasonably segregable portion of a matter  
7 referred to in subparagraph (A), (B), or (C) of paragraph  
8 (2) shall be provided, after deletion of all portions of the  
9 matter that are referred to in such subparagraph, to any  
10 person requesting the matter under this section if the rea-  
11 sonably segregable portion would otherwise be required to  
12 be disclosed under this section.

13 “(4) In the case of a request under this section for  
14 any matter required to be disclosed under this subsection,  
15 if the agency receiving such request is unable to locate  
16 the records so requested, such agency shall promptly sup-  
17 ply, to the person making such request, a description of  
18 the steps which were taken by such agency to search the  
19 indices and other locator systems of the agency to deter-  
20 mine whether such records are in the possession or control  
21 of the agency.”.

22 (b) INAPPLICABILITY OF NATIONAL SECURITY ACT  
23 OF 1947 EXEMPTION.—Section 701 of the National Secu-  
24 rity Act of 1947 (50 U.S.C. 431) is amended—

1           (1) by redesignating subsections (e) and (f) as  
2           subsections (f) and (g), respectively; and

3           (2) by inserting after subsection (d) the follow-  
4           ing new subsection:

5           “(e) Subsection (a) shall not apply to any operational  
6           file, or any portion of any operational file, required to be  
7           disclosed under section 552(d) of title 5, United States  
8           Code (Freedom of Information Act).”.

9           **SEC. 3. EFFECTIVE DATE.**

10          The amendments made by this Act shall apply to re-  
11          quests made after the expiration of the 180-day period be-  
12          ginning on the date of the enactment of this Act.

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