

113TH CONGRESS
2D SESSION

S. 2683

To reform classification and security clearance processes throughout the Federal Government and, within the Department of Homeland Security, to establish an effective and transparent process for the designation, investigation, adjudication, denial, suspension, and revocation of security clearances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2014

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To reform classification and security clearance processes throughout the Federal Government and, within the Department of Homeland Security, to establish an effective and transparent process for the designation, investigation, adjudication, denial, suspension, and revocation of security clearances, and for other purposes.

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

3 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Clearance and Over-Classification Reform and Reduction
6 Act” or the “CORRECT Act”.

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

Sec. 1. Short titles; table of contents.
 Sec. 2. Definitions.

TITLE I—REFORMS TO CLASSIFICATION AND CLEARANCE PROCESSES

Subtitle A—Reducing Over-Classification

Sec. 101. Trend information on classified information and third evaluations.
 Sec. 102. Uniformity in sampling.
 Sec. 103. Ten percent reduction in holdings of classified information.
 Sec. 104. Status update on efforts at reducing holdings of classified information.
 Sec. 105. Report.
 Sec. 106. Public Interest Declassification Board enhancements.
 Sec. 107. Classification designation training.
 Sec. 108. Reducing over-classification guidance.

Subtitle B—Governmentwide Reforms

Sec. 111. Sense of Congress.
 Sec. 112. Report on certain designations.
 Sec. 113. Transparency and accountability in personnel security investigations.
 Sec. 114. Continuous evaluation programs and insider threat programs.
 Sec. 115. Mitigating factors in the context of a continuous evaluation program or insider threat program.
 Sec. 116. Appeal to the Merit Systems Protection Board.
 Sec. 117. Automated or nongovernmental adjudication prohibited.
 Sec. 118. Report on media contacts policy for intelligence personnel.

TITLE II—DEPARTMENT OF HOMELAND SECURITY CLEARANCE PROCESS REFORMS

Subtitle A—Designation

Sec. 201. Designation of national security sensitive and public trust positions.
 Sec. 202. Audits.
 Sec. 203. Review of position designations.

Subtitle B—Investigation

Sec. 211. Investigation services provider performance.
 Sec. 212. Metrics.

Subtitle C—Adjudication

Sec. 221. Uniform adjudication standards.

Subtitle D—Denial, Suspension, Revocation, and Appeal

Sec. 231. Uniform revocation criteria and procedures.
 Sec. 232. Annual reporting.
 Sec. 233. Final appeals panel.

Subtitle E—Miscellaneous Provisions

Sec. 241. Intelligence Reform and Terrorism Prevention Act of 2004 review and security clearance reciprocity.

Sec. 242. Office of Inspector General report.

Sec. 243. Penalties for falsification relating to an investigation file.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) IN GENERAL.—The terms “agency”, “au-
4 thorized investigative agency”, “authorized adjudica-
5 tive agency”, “current investigation file”, “periodic
6 reinvestigations”, and “personnel security investiga-
7 tion” have the meanings given those terms in section
8 3001(a) of the Intelligence Reform and Terrorism
9 Prevention Act of 2004 (50 U.S.C. 3341(a)).

10 (2) OTHER TERMS.—

11 (A) CHIEF SECURITY OFFICER OF THE DE-
12 PARTMENT OF HOMELAND SECURITY.—The
13 term “Chief Security Officer of the Department
14 of Homeland Security” means the Classified In-
15 formation Advisory Officer of the Department
16 of Homeland Security identified and designated
17 pursuant to section 210F of the Homeland Se-
18 curity Act of 2002 (6 U.S.C. 124m).

19 (B) INVESTIGATION SERVICE PROVIDER.—
20 The term “investigation service provider”
21 means the Office of Personnel Management and
22 any other entity that undertakes investigative

services, including criminal record checks, financial record checks, field interviews, employment review, and education verifications, for an investigation file for a national security position.

(C) NATIONAL SECURITY POSITION.—The term “national security position” has the meaning given that term in section 732.102 of title 5, Code of Federal Regulations or similar successor regulation.

TITLE I—REFORMS TO CLASSIFICATION AND CLEARANCE PROCESSES

Subtitle A—Reducing Over-Classification

SEC. 101. TREND INFORMATION ON CLASSIFIED INFORMATION AND THIRD EVALUATIONS.

Subsection (b) of section 6 of the Reducing Over-Classification Act (50 U.S.C. 3161 note; Public Law 111–258) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph

(A)—

(i) by striking “2016,” and inserting

“2019,”; and

1 (ii) by striking “no less than two” and
 2 inserting “not fewer than three”;

3 (B) in subparagraph (A), by striking
 4 “and” at the end;

5 (C) in subparagraph (B), by striking the
 6 period at the end and inserting “; and”; and

7 (D) by adding after subparagraph (B) the
 8 following new subparagraph:

9 “(C) beginning with the second evaluation
 10 under paragraph (2)(B), to assess, with respect
 11 to subparagraph (A) of this paragraph, the de-
 12 gree to which the incentives for accurate classi-
 13 fication decisions referred to in subsection (a)
 14 have been utilized, and the extent to which the
 15 use of such incentives, including cash incentives
 16 or other alternative, non-cash awards, has im-
 17 proved the accuracy of original classification de-
 18 cisions or derivative classification decisions and
 19 a reduction in classified information.”;

20 (2) in paragraph (2), by adding at the end the
 21 following new subparagraph:

22 “(C) THIRD EVALUATIONS.—Each third
 23 evaluation required by paragraph (1) shall re-
 24 view progress made since the second evaluation
 25 and the adequacy of the records to support each

1 self-inspection program determination in ac-
2 cordance with subsection (c), and assess such
3 department or agency's procedures and activi-
4 ties regarding classification challenges. Specifi-
5 cally, each third evaluation shall—

6 “(i)(I) assess implementation of pro-
7 cedures by such department or agency to
8 encourage authorized holders of classified
9 information, including authorized holders
10 outside the classifying agency, to challenge
11 the classification of information that they
12 believe is improperly classified or unclassi-
13 fied, as required by section 1.8 of Execu-
14 tive Order 13526 (50 U.S.C. 3161 note) or
15 successor order, and the degree to which
16 such department or agency makes each au-
17 thorized holder of classified information
18 aware of the procedures and encourages
19 such holders to challenge the classification
20 of information that they believe is improp-
21 erly classified or unclassified; and

22 “(II) to the extent practicable, review
23 data reflecting the disposition of challenges
24 received by such department or agency, in-

cluding how often such challenges resulted
in a change in classification;

“(ii) review the degree to which information that was declassified was determined by the agency to be of extraordinary public interest that does not undermine the national security of the United States, including information on the number of national security positions (pursuant to part 732 of title 5, Code of Federal Regulations, or similar successor regulation), by classification level, that are designated within the agency during that period; and

“(iii) shall be completed not later than September 30, 2019.”; and

(3) in paragraph (3)(B)—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding after clause (ii) the following new clause:

“(iii) information relating to the assessment required under paragraph (1)(C).”.

1 **SEC. 102. UNIFORMITY IN SAMPLING.**

2 Section 6 of the Reducing Over-Classification Act (50
3 U.S.C. 3161 note; Public Law 111–258) is amended by
4 adding at the end the following new subsection:

5 “(c) UNIFORMITY IN SAMPLING.—The President,
6 acting through the Director of the Information Security
7 Oversight Office, shall issue a standardized sampling tech-
8 nique for department and agency self-inspection programs
9 as required pursuant to Executive Order 13526 (50
10 U.S.C. 3161 note) or successor order in order to address
11 any vulnerabilities in such programs.”.

12 **SEC. 103. TEN PERCENT REDUCTION IN HOLDINGS OF**
13 **CLASSIFIED INFORMATION.**

14 Section 6 of the Reducing Over-Classification Act (50
15 U.S.C. 3161 note; Public Law 111–258), as amended by
16 section 102 of this Act, is further amended by adding at
17 the end the following new subsection:

18 “(d) TEN PERCENT REDUCTION IN HOLDING OF
19 CLASSIFIED INFORMATION.—The President shall estab-
20 lish goals for reducing, by the date that is not later than
21 five years after the date of the enactment of this sub-
22 section, classified information, through declassification
23 and improved original and derivative classification deci-
24 sionmaking, by not less than ten percent as compared to
25 the amount of such information as of the day before such
26 date. For purposes of this subsection, classified informa-

tion that would otherwise be declassified pursuant to Executive Order 13526 (50 U.S.C. 3161 note) or successor order shall not count towards such ten percent requirement.”.

SEC. 104. STATUS UPDATE ON EFFORTS AT REDUCING HOLDINGS OF CLASSIFIED INFORMATION.

Section 704(d)(1) of the Public Interest Declassification Act of 2000 (50 U.S.C. 3161 note; Public Law 106–567) is amended by striking the period and inserting “and information on the status of efforts, to the extent practicable on an agency-by-agency basis, at reducing the holding of classified information pursuant to section 6(d) of the Reducing Over-Classification Act (50 U.S.C. 3161 note; Public Law 111–258).”.

SEC. 105. REPORT.

Section 6 of the Reducing Over-Classification Act (50 U.S.C. 3161 note; Public Law 111–258), as amended by sections 102 and 103 of this Act, is further amended by adding at the end the following new subsection:

“(e) REPORT.—The Inspector General of each department or agency of the United States with an officer or employee who is authorized to make original and derivative classification decisions shall submit to the appropriate entities (as such term is defined in subsection

1 (b)(4)) a report relating to progress accomplished under
 2 subsections (c) and (d).”.

3 **SEC. 106. PUBLIC INTEREST DECLASSIFICATION BOARD**
 4 **ENHANCEMENTS.**

5 (a) REVIEWS OF CLASSIFICATION GUIDANCE.—Sub-
 6 sections (a) and (b) of section 704 of the Public Interest
 7 Declassification Act of 2000 (50 U.S.C. 3161 note; Public
 8 Law 106–567) are amended to read as follows:

9 “(a) AGENCY DECLASSIFICATION PROGRAMS AND
 10 CLASSIFICATION GUIDANCE.—

11 “(1) DECLASSIFICATION PROGRAMS.—

12 “(A) REPORT.—The head of any agency
 13 with the authority under an Executive order to
 14 classify information shall annually provide to
 15 the Board, the Select Committee on Intelligence
 16 of the Senate, and the Permanent Select Com-
 17 mittee on Intelligence of the House of Rep-
 18 resentatives a summary briefing and report on
 19 the progress and plans of such agency in the
 20 declassification of national security information.

21 “(B) CONTENTS.—Each briefing and re-
 22 port required under subparagraph (A) shall—

23 “(i) cover the declassification goals set
 24 by statute, regulation, or policy, the
 25 progress of the agency towards completing

1 such goals, and the planned goals and pri-
2 orities of the agency for its declassification
3 activities over the 2 fiscal years following
4 the report;

5 “(ii) give particular attention to
6 progress on the declassification of records
7 and materials that are of extraordinary
8 public interest to the people of the United
9 States; and

10 “(iii) include information on the dis-
11 position of recommendations regarding
12 special searches for records of extraor-
13 dinary public interest submitted pursuant
14 to subsection (c).

15 “(C) CONSOLIDATED REPORT.—The an-
16 nual briefing and report under subparagraph
17 (A) for agencies within the Department of De-
18 fense, including the military departments and
19 the elements of the intelligence community (as
20 defined in section 3(4) of the National Security
21 Act of 1947 (50 U.S.C. 3003(4))), shall be pro-
22 vided on a consolidated basis.

23 “(2) REVIEW OF CLASSIFICATION GUIDANCE.—

24 The Board shall, on an ongoing basis, review classi-
25 fication guidance required pursuant to Executive

1 Order 13526 (50 U.S.C. 3161 note) or successor
2 order utilized within each agency to assess—

3 “(A) the validity of the national security
4 basis for each instruction in the classification
5 guidance;

6 “(B) the clarity of each instruction within
7 the classification guidance to ensure that only
8 the minimum necessary information is classi-
9 fied; and

10 “(C) the feasibility of narrowing or elimi-
11 nating any classification guidance that is un-
12 necessary or obsolete.

13 “(3) PLAN FOR REVIEWING CLASSIFICATION
14 GUIDANCE.—Not later than 90 days after the date
15 of the enactment of the Clearance and Over-Classi-
16 fication Reform and Reduction Act, the Chairperson
17 of the Board shall submit a multi-year plan for re-
18 viewing classification guidance utilized within each
19 agency, with benchmarks for when and, to the extent
20 practicable, which classification guidance will be re-
21 viewed and how the findings will be shared with the
22 head of each agency and the inspector general of
23 each agency.

24 “(4) RECOMMENDATIONS FOR HARMONIZING
25 AND REDUCING CLASSIFICATION GUIDANCE.—Not

1 later than one year after the date of the enactment
2 of the Clearance and Over-Classification Reform and
3 Reduction Act, the Chairperson of the Board shall
4 submit recommendations for harmonizing and reduc-
5 ing classification guidance across the Federal Gov-
6 ernment to the President.

7 “(b) RECOMMENDATIONS ON AGENCY DECLAS-
8 SIFICATION PROGRAMS AND CLASSIFICATION GUID-
9 ANCE.—

10 “(1) IN GENERAL.—Upon reviewing classifica-
11 tion guidance and discussing declassification plans
12 and progress with an agency, the Board shall pro-
13 vide to the head of that agency, the Director of the
14 Office of Management and Budget, and the Assist-
15 ant to the President for National Security Affairs
16 the written recommendations of the Board as to how
17 the classification guidance and declassification pro-
18 gram of the agency could be improved.

19 “(2) PUBLIC AVAILABILITY.—Not later than 60
20 days after the Board provides written recommenda-
21 tions to the head of an agency in accordance with
22 paragraph (1), the Board shall make such rec-
23 ommendations public in accordance with section
24 703(k).”.

1 (b) STAFF AND DETAILEES.—Subsection (f) of sec-
2 tion 703 of such Act is amended to read as follows:

3 “(f) DIRECTOR AND STAFF.—

4 “(1) DIRECTOR.—The Chairperson of the
5 Board, in accordance with rules agreed upon by the
6 Board, shall appoint and fix the compensation of a
7 Director, except that no rate of pay fixed under this
8 paragraph may exceed the equivalent of that payable
9 for a position at level V of the Executive Schedule
10 under section 5316 of title 5, United States Code.

11 “(2) STAFF.—The Chairperson of the Board, in
12 accordance with rules agreed upon by the Board,
13 may appoint and fix the pay of personnel as may be
14 necessary to enable the Board to carry out its func-
15 tions.

16 “(3) APPLICABILITY OF CERTAIN CIVIL SERV-
17 ICE LAWS.—The Director and staff may be ap-
18 pointed without regard to the provisions of title 5,
19 United States Code, governing appointments in the
20 competitive service, and may be paid without regard
21 to the provisions of chapter 51 and subchapter III
22 of chapter 53 of such title relating to classification
23 and General Schedule pay rates.

24 “(4) DETAILEES.—Any employee of the Federal
25 Government may be detailed to the Board with the

1 agreement of, and without reimbursement to, the de-
 2 tailing agency, and such detail shall be without
 3 interruption or loss of civil, military, or foreign serv-
 4 ice status or privilege.”.

5 (c) COMPENSATION AND TRAVEL EXPENSES.—Sub-
 6 section (h) of section 703 of such Act is amended to read
 7 as follows:

8 “(h) COMPENSATION AND TRAVEL EXPENSES.—

9 “(1) COMPENSATION.—

10 “(A) CHAIRPERSON.—The Chairperson of
 11 the Board shall be compensated at the rate of
 12 pay payable for a position at level III of the Ex-
 13 ecutive Schedule under section 5314 of title 5,
 14 United States Code.

15 “(B) MEMBERS.—Each member of the
 16 Board shall be compensated at a rate of pay
 17 payable for a position at level IV of the Execu-
 18 tive Schedule under section 5315 of such title,
 19 for each day during which that member is en-
 20 gaged in the actual performance of the duties
 21 of the Board.

22 “(2) TRAVEL EXPENSES.—Members of the
 23 Board shall receive travel expenses, including per
 24 diem in lieu of subsistence, in accordance with appli-

1 cable provisions under subchapter I of chapter 57 of
 2 title 5, United States Code.”.

3 (d) PUBLIC MEETINGS.—Section 704(c) of such Act
 4 is amended by adding at the end the following new para-
 5 graph:

6 “(3) In carrying out this subsection, the Board shall
 7 conduct public meetings on at least a semiannual basis
 8 and publish in the Federal Register notice of such meet-
 9 ings.”.

10 (e) EXTENSION OF SUNSET.—Subsection (b) of sec-
 11 tion 710 of such Act is amended by striking “2018.” and
 12 inserting “2024.”.

13 **SEC. 107. CLASSIFICATION DESIGNATION TRAINING.**

14 Section 7 of the Reducing Over-Classification Act (50
 15 U.S.C. 3344) is amended—

16 (1) in subsection (a), in the matter preceding
 17 paragraph (1)—

18 (A) in the first sentence, by inserting “, in-
 19 cluding computer-based training,” after “an-
 20 nual training”; and

21 (B) in the second sentence, by inserting
 22 “such” before “training”; and

23 (2) by adding at the end the following new sub-
 24 section:

1 “(c) RECORDKEEPING.—The head of each Executive
 2 agency shall maintain records and make such records
 3 available to the inspector general of each such agency of
 4 the extent to which training required under this section
 5 is completed by each employee subject to such training.”.

6 **SEC. 108. REDUCING OVER-CLASSIFICATION GUIDANCE.**

7 The Secretary of Homeland Security shall develop
 8 and disseminate to components of the Department of
 9 Homeland Security and make available to other agencies
 10 guidance on best practices and strategies to implement the
 11 Reducing Over-Classification Act (Public Law 111–258;
 12 124 Stat. 2648), as amended by this Act. Such guidance
 13 shall include information on the following:

14 (1) Administrative approaches, including the es-
 15 tablishment of internal quarterly meetings and work-
 16 ing groups to carry out the requirements of the Re-
 17 ducing Over-Classification Act.

18 (2) Consolidation of information security poli-
 19 cies throughout an agency.

20 (3) Provision of training, including in-person
 21 initial training and computer-based recurrent train-
 22 ing, in accordance with section 7 of the Reducing
 23 Over-Classification Act, as amended by section 107
 24 of this Act.

1 (4) Adoption of uniform formats for the prepa-
 2 ration, production, or publication of classified infor-
 3 mation.

4 (5) Ways to encourage an authorized holder of
 5 classified information to challenge the classification
 6 of information that such holder believes is improp-
 7 erly classified or unclassified, as required by section
 8 1.8 of Executive Order 13526 (50 U.S.C. 3161
 9 note) or successor order.

10 **Subtitle B—Governmentwide** 11 **Reforms**

12 **SEC. 111. SENSE OF CONGRESS.**

13 It is the sense of Congress that a position shall only
 14 be designated as a national security position if access to
 15 classified information is required or if that position—

16 (1) presents a risk of a material adverse effect
 17 on the national security (as described in section
 18 732.201 of title 5, Code of Federal Regulations, or
 19 similar successor regulation); and

20 (2) is determined to be a public trust position
 21 (as described in section 731.106 of title 5, Code of
 22 Federal Regulations, or similar successor regula-
 23 tion).

1 **SEC. 112. REPORT ON CERTAIN DESIGNATIONS.**

2 (a) REPORT.—Not later than 6 months after the date
3 of the enactment of this Act and biannually thereafter,
4 the head of each agency with the authority to designate
5 a national security position shall submit to Congress a re-
6 port that provides information regarding any national se-
7 curity position for which access to classified materials is
8 not required and the position is not determined to be a
9 public trust position (as described in section 731.106 of
10 title 5, Code of Federal Regulations, or similar successor
11 regulation).

12 (b) CONTENTS.—The report required under sub-
13 section (a) shall include—

14 (1) a description for the position, including spe-
15 cific information on duties and day-to-day oper-
16 ations;

17 (2) the history of the position's national secu-
18 rity position designation, including whether the posi-
19 tion is newly created or was transferred from an-
20 other department, division, or program;

21 (3) an explanation of the position's national se-
22 curity position designation and whether responsibil-
23 ities have been added to the position to explain the
24 designation;

25 (4) an explanation of the national security im-
26 plications of the position;

(7) demographic information on the individual who holds the position, including age, gender, race, ethnicity, employment status, and geographic location.

(c) PUBLIC REPORT.—The report required under subsection (a) shall be submitted in unclassified form and be made publicly available, but may include a classified annex for any sensitive or classified information if necessary.

16 SEC. 113. TRANSPARENCY AND ACCOUNTABILITY IN PER-
17 SONNEL SECURITY INVESTIGATIONS.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of National Intelligence and the Director of the Office of Personnel Management shall establish requirements for a uniform markings process to identify the investigation service provider that originated each piece of information in a current investigation file.

25 (b) UTILIZATION.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the establishment of the uniform markings process
3 pursuant to subsection (a), investigation service pro-
4 viders shall utilize such uniform markings process
5 and make available, upon request by the authorized
6 adjudicative agency, all documents in a current in-
7 vestigation file.

8 (2) EXCEPTION.—This subsection shall not
9 apply to a personnel security investigation that an
10 agency conducts using its own personnel, under dele-
11 gated or statutory authority.

12 **SEC. 114. CONTINUOUS EVALUATION PROGRAMS AND IN-**
13 **SIDER THREAT PROGRAMS.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) The term “continuous evaluation”, as de-
16 fined in Executive Order 13467 (50 U.S.C. 3161
17 note), means reviewing the background of an indi-
18 vidual who has been determined to be eligible for ac-
19 cess to classified information at any time during the
20 period of eligibility.

21 (2) Since 1998, at least 10 continuous evalua-
22 tion pilot studies have been carried out by Federal
23 agencies to monitor the individuals with security
24 clearances on an ongoing basis.

1 (3) The Department of Defense has conducted
2 multiple continuous evaluation pilots since early
3 2002 and has more than one pilot that is ongoing
4 as of July 1, 2014. By October 2014, the Depart-
5 ment anticipates 100,000 people to be subject to
6 continuous evaluation with the population steadily
7 rising to 1,000,000 by 2017.

8 (4) The Office of the Director of National Intel-
9 ligence plans for all individuals with Top Secret
10 clearances or higher to be subject to continuous eval-
11 uation by 2016.

12 (5) Since 2010, applicants submitting an appli-
13 cation for a security clearance, the Standard Form
14 86, are required to consent to being monitored
15 through continuous evaluation.

16 (6) In February 2014, the Office of Manage-
17 ment and Budget issued a 120-day review of Federal
18 employee suitability and contractor fitness deter-
19 minations as well as security clearance procedures
20 and recommended an accelerated timetable for an
21 integrated solution or continuous evaluation program
22 across all Federal agencies and security levels.

23 (7) In addition to continuous evaluation, some
24 Federal agencies are establishing insider threat pro-
25 grams pursuant to Executive Order 13587 (50

1 U.S.C. 3161 note), which authorized the establish-
2 ment of insider threat programs to, among other
3 things, identify any Government or contracted em-
4 ployee that may have compromised national security
5 through such employee's work capacity.

6 (8) Continuous evaluation and insider threat
7 programs are proliferating throughout the Federal
8 government without requirements for protections to
9 ensure that such programs be designed and imple-
10 mented in a manner that not only protects national
11 security but also promotes fairness, transparency,
12 and employee protections, including whistleblower
13 protections.

14 (b) REQUIREMENTS.—Not later than 180 days after
15 the date of the enactment of this Act, the Privacy and
16 Civil Liberties Oversight Board, established under section
17 1061 of the Intelligence Reform and Terrorism Prevention
18 Act of 2004 (42 U.S.C. 2000ee), shall publish in the Fed-
19 eral Register standards for the protection of national secu-
20 rity and promotion of fairness, transparency, and em-
21 ployee protections, including safeguards to preserve the
22 rights and confidentiality of whistleblowers with respect
23 to the operation of a continuous evaluation program and
24 the operation of an insider threat program by a Federal
25 agency.

1 (c) CERTIFICATION.—

2 (1) IN GENERAL.—Not later than 90 days after
3 the date of publication of the standards under sub-
4 section (b), the head of any agency that is operating
5 a continuous evaluation program or insider threat
6 program as of the date of the enactment of this Act
7 shall—

8 (A) certify whether such program is in
9 compliance with the standards established
10 under subsection (b); and

11 (B) publish such certification in the Fed-
12 eral Register.

13 (2) SUSPENSION OR PROGRAM.—Any such head
14 who certifies that a continuous evaluation program
15 or insider threat program does not meet such stand-
16 ards or who fails to publish a certification of compli-
17 ance pursuant to paragraph (1) shall suspend the
18 program until such program is compliant and certifi-
19 cation of compliance is published in the Federal
20 Register.

21 (d) REPORT.—The head of any agency that is oper-
22 ating a continuous evaluation program or insider threat
23 program as of the date of the enactment of this Act shall
24 annually submit to Congress a report that includes the
25 following information:

1 (1) The number of individuals in the agency
2 subject to the continuous evaluation program or in-
3 sider threat program.

4 (2) The number of individuals in the agency
5 whose eligibility for access to classified information
6 was suspended or revoked as a result of information
7 acquired through the continuous evaluation program
8 or insider threat program.

9 (3) The total number of individuals in the agen-
10 cy who are eligible to access classified information.

11 (4) Demographic information on each individual
12 whose eligibility for access to classified information
13 was changed as a result of information collected
14 through the continuous evaluation program or in-
15 sider threat program, including age, race, gender,
16 and ethnicity.

17 (5) A description of the mechanisms used to
18 conduct the evaluations, including how individuals
19 were selected, whether the evaluations were random-
20 ized, and if so, the nature of the randomization, in-
21 cluding the degree to which it was temporally ran-
22 domized and the degree to which the selection of in-
23 dividuals subject to the program was randomized.

24 (6) A description of the types of information
25 that were captured through the continuous evalua-

1 tion program or insider threat program and were the
2 basis for further investigation.

3 (7) The frequency that information captured
4 through the continuous evaluation program or in-
5 sider threat program was the basis for further inves-
6 tigation.

7 (8) Information on any individual whose eligi-
8 bility for access to classified information was
9 changed as a result of information collected through
10 the continuous evaluation program or insider threat
11 program, including the clearance level of each im-
12 pacted individual and what position, if any, the indi-
13 vidual holds within the agency, number of years the
14 individual has been eligible to access classified infor-
15 mation at the level held at the time that the indi-
16 vidual was subject to the continuous evaluation pro-
17 gram or insider threat program and, if available, the
18 frequency that classified information was accessed
19 by each such individual.

20 (9) Identification of each database that was
21 accessed.

22 (10) Protocols for resolution of information
23 captured through the continuous evaluation program
24 or insider threat program that was the basis for fur-
25 ther investigation, including the provision of notifica-

1 tion to the impacted individual's supervisor and the
2 impacted individual.

3 (11) Information on any specific instance in
4 which the continuous evaluation program or insider
5 threat program resulted in the protection of classi-
6 fied information and national security.

7 (12) Information on the annual and life-cycle
8 costs of the continuous investigation or insider
9 threat program and, in the event that the head of
10 the agency intends to expand the program, informa-
11 tion on the anticipated costs of expansion.

12 (e) PILOT PROGRAM.—The head of any agency that
13 establishes a continuous evaluation program after the date
14 of the enactment of this Act shall be subject to the fol-
15 lowing requirements:

16 (1) Before initiating a continuous evaluation
17 program or insider threat program, such head shall
18 conduct a pilot continuous evaluation program or
19 pilot insider threat program that is not shorter than
20 120 days in duration and uses a representative sam-
21 ple of individuals eligible for access to classified in-
22 formation, including individuals employed by con-
23 tractors. Participants in the program shall receive
24 notification and, in the event that derogatory infor-
25 mation is identified through the program that re-

1 sults in changes to such participant's eligibility for
2 access to classified information, shall be provided ac-
3 cess to the redress process described under section
4 116.

5 (2) Before conducting a pilot continuous eval-
6 uation program or pilot insider threat program
7 under paragraph (1), such head shall publish, in the
8 Federal Register, a notice of the program that pro-
9 vides information on the provisions of the program,
10 metrics for evaluating its efficacy, and a privacy im-
11 pact assessment.

12 (3) Not later than 90 days after the initiation
13 of a pilot continuous evaluation program or pilot in-
14 sider threat program pursuant to paragraph (1),
15 such head shall submit to Congress a preliminary re-
16 port that includes—

17 (A) the number of individuals evaluated
18 under the program;

19 (B) the total number of individuals in the
20 agency who are eligible to access classified in-
21 formation;

22 (C) demographics of the individuals evalu-
23 ated under the program, including age, race,
24 gender, ethnicity, employer, clearance level, and

1 the number of years the individual has been eli-
2 gible to access classified information;

3 (D) a position description for each indi-
4 vidual evaluated under the program;

5 (E) a description of the mechanisms used
6 to conduct the evaluations, including how indi-
7 viduals were selected, whether the evaluations
8 were randomized, and if so, the nature of the
9 randomization, including the degree to which it
10 was temporally randomized and the degree to
11 which the selection of individuals subject to the
12 program was randomized;

13 (F) a description of the types of informa-
14 tion that were captured through the program
15 and were the basis for further investigation;

16 (G) the frequency that information cap-
17 tured through the program was the basis for
18 further investigation; and

19 (H) information on the number of individ-
20 uals whose eligibility for access to classified in-
21 formation was changed as a result of informa-
22 tion collected through the program.

23 (4) Not later than 180 days after the conclu-
24 sion of a pilot continuous evaluation program or
25 pilot insider threat program pursuant to paragraph

1 (1) or expansion of a pilot continuous evaluation
2 program or pilot insider threat program, such head
3 shall submit to Congress a final report that updates
4 the information required in the preliminary report
5 under paragraph (3). The report shall include—

6 (A) an identification of each database that
7 was accessed;

8 (B) protocols for resolution of information
9 captured through the program that was the
10 basis for further investigation, including the
11 provision of notification to the impacted individ-
12 ual's supervisor and the impacted individual;

13 (C) information on any specific instance in
14 which continuous evaluation resulted in the pro-
15 tection of classified information and national se-
16 curity; and

17 (D) information regarding the annual and
18 life-cycle costs of the program and, in the event
19 that such head intends to expand the program
20 or initiate a continuous evaluation program or
21 insider threat program, information on the an-
22 ticipated costs of an expansion or initiation.

23 (5) Prior to expanding a pilot continuous eval-
24 uation program or insider threat program or initi-
25 ating a continuous evaluation program or insider

1 threat program, such head shall secure a privacy im-
2 pact assessment from the top privacy and civil lib-
3 erties officials at such agency.

4 (f) UNCLASSIFIED REPORTS.—All reports required
5 under this section shall be submitted in unclassified form
6 and be made publicly available, but may include a classi-
7 fied annex if necessary.

8 (g) LIMITATION ON DATA COLLECTION.—Not later
9 than 180 days after the date of the enactment of this Act,
10 the head of an agency that operates a continuous evalua-
11 tion program shall ensure that data collection under the
12 program is limited to databases and other sources of infor-
13 mation accessed for a periodic reinvestigation as of the
14 date of the enactment of this Act.

15 (h) DEFINITIONS.—In this section:

16 (1) CONTINUOUS EVALUATION PROGRAM.—The
17 term “continuous evaluation program” means any
18 program continually reviewing the background of an
19 individual who has been determined to be eligible for
20 access to classified information pursuant to Execu-
21 tive Order 12968 (50 U.S.C. 3161 note) (as amend-
22 ed by Executive Order 13467 (50 U.S.C. 3161
23 note)) or any other similar authority.

24 (2) INSIDER THREAT PROGRAM.—The term “in-
25 sider threat program” means any program moni-

1 toring the activity of an individual who has been de-
 2 termined to be eligible for access to classified infor-
 3 mation to improve insider threat detection and pre-
 4 vention pursuant to Executive Order 13587 (50
 5 U.S.C. 3161 note) or successor order.

6 **SEC. 115. MITIGATING FACTORS IN THE CONTEXT OF A**
 7 **CONTINUOUS EVALUATION PROGRAM OR IN-**
 8 **SIDER THREAT PROGRAM.**

9 (a) CONTINUOUS EVALUATION.—Not later than 120
 10 days after the date of the enactment of this Act, for each
 11 adjudicative guideline for individuals with access to classi-
 12 fied information (as described in part 147 of title 32, Code
 13 of Federal Regulations, or similar successor regulation)
 14 the President shall update and tailor the conditions that
 15 mitigate security concerns to address continuous evalua-
 16 tion of such individuals performed pursuant to Executive
 17 Order 12968 (50 U.S.C. 3161 note) (as amended by Exec-
 18 utive Order 13467 (50 U.S.C. 3161 note)) or any other
 19 authority, including the implications of recency on the
 20 availability of mitigation.

21 (b) INSIDER THREAT PROGRAM.—Not later than 240
 22 days after the date of the enactment of this Act, the Presi-
 23 dent shall establish adjudicative guidelines, including con-
 24 ditions that mitigate security concerns that consider the
 25 implications of recency on the availability of mitigation,

1 for an individual who is subject to an adverse decision
2 based on an insider threat program established pursuant
3 to Executive Order 13587 (50 U.S.C. 3161 note) or suc-
4 cessor order.

5 **SEC. 116. APPEAL TO THE MERIT SYSTEMS PROTECTION**
6 **BOARD.**

7 An employee for whom a final determination of ineli-
8 gibility for a national security position has been made is
9 entitled to appeal to the Merit Systems Protection Board
10 under section 7701 of title 5, United States Code.

11 **SEC. 117. AUTOMATED OR NONGOVERNMENTAL ADJUDICA-**
12 **TION PROHIBITED.**

13 (a) IN GENERAL.—An adjudication by an agency
14 that an individual may not have access to classified infor-
15 mation may only be made by a Federal employee and may
16 not be rendered by an automated, electronic, or computer
17 system.

18 (b) FEDERAL EMPLOYEE DEFINED.—In this section,
19 the term “Federal employee” has the meaning given the
20 term “employee” in section 2105 of title 5, United States
21 Code, and includes any member of the uniformed services.

22 **SEC. 118. REPORT ON MEDIA CONTACTS POLICY FOR IN-**
23 **TELLIGENCE PERSONNEL.**

24 Not later than 90 days after the date of the enact-
25 ment of this Act, the head of each element of the intel-

1 ligence community (as such term is defined in section 3(4)
 2 of the National Security Act of 1947 (50 U.S.C. 3003(4)))
 3 shall submit to Congress a report on each such element's
 4 implementation of policy directives regarding contacts
 5 with news media by intelligence community personnel.
 6 Such report shall describe how each such element's imple-
 7 mentation of such directives protects the free speech rights
 8 of intelligence community personnel, including intelligence
 9 community personnel who choose to discuss unclassified
 10 public policy issues with friends or family members who
 11 may use new media technologies.

12 **TITLE II—DEPARTMENT OF**
 13 **HOMELAND SECURITY**
 14 **CLEARANCE PROCESS RE-**
 15 **FORMS**

16 **Subtitle A—Designation**

17 **SEC. 201. DESIGNATION OF NATIONAL SECURITY SEN-**
 18 **SITIVE AND PUBLIC TRUST POSITIONS.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
 20 rity shall require the Department of Homeland Security,
 21 including all components of the Department, to designate
 22 the sensitivity level of national security positions (pursu-
 23 ant to part 732 of title 5, Code of Federal Regulations,
 24 or similar successor regulation) in an accurate and con-

1 sistent manner within the Department, including all such
2 components.

3 (b) IMPLEMENTATION.—In carrying out subsection
4 (a), the Secretary of Homeland Security shall require the
5 utilization of uniform designation tools throughout the De-
6 partment of Homeland Security, including all components
7 of the Department, and provide training to appropriate
8 staff of the Department, including staff of all such compo-
9 nents, on such utilization. Such training shall include
10 guidance on factors for determining eligibility for access
11 to classified information and facilities with classified infor-
12 mation.

13 **SEC. 202. AUDITS.**

14 Not later than 180 days after the Director of Na-
15 tional Intelligence and Director of the Office of Personnel
16 Management issue a rule for designation of national secu-
17 rity positions (pursuant to part 732 of title 5, Code of
18 Federal Regulations, or similar successor regulation), the
19 Inspector General of the Department of Homeland Secu-
20 rity shall conduct regular audits of compliance of the De-
21 partment with such rule.

22 **SEC. 203. REVIEW OF POSITION DESIGNATIONS.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-
24 rity, acting through the Chief Security Officer of the De-
25 partment of Homeland Security, shall biennially conduct

1 a review of all sensitivity level designations of national se-
2 curity positions (pursuant to part 732 of title 5, Code of
3 Federal Regulations, or similar successor regulation) at
4 the Department.

5 (b) DETERMINATION.—If during the course of a re-
6 view required under subsection (a) the Secretary of Home-
7 land Security determines that a change in the sensitivity
8 level of a position that affects the need for an individual
9 to obtain access to classified information is warranted,
10 such access shall be administratively adjusted or periodic
11 reinvestigation completed, as necessary.

12 (c) REPORT.—

13 (1) IN GENERAL.—Upon completion of each re-
14 view required under subsection (a), the Secretary of
15 Homeland Security shall submit to the Committee
16 on Homeland Security and Governmental Affairs of
17 the Senate and the Committee on Homeland Secu-
18 rity of the House of Representatives a report on the
19 number of positions by classification level and by
20 component of the Department of Homeland Security
21 that are to be redesignated in accordance with sub-
22 section (b) to—

23 (A) require access to classified informa-
24 tion;

1 (B) no longer require access to classified
2 information; or

3 (C) otherwise require a different level of
4 access to classified information.

5 (2) FORM.—The report required under para-
6 graph (1) shall be submitted in unclassified form
7 and be made publicly available, but may include a
8 classified annex for any sensitive or classified infor-
9 mation if necessary.

10 **Subtitle B—Investigation**

11 **SEC. 211. INVESTIGATION SERVICES PROVIDER PERFORM-** 12 **ANCE.**

13 (a) IN GENERAL.—The Secretary of Homeland Secu-
14 rity, acting through the Chief Security Officer of the De-
15 partment of Homeland Security, shall annually survey the
16 head of each component or office of the Department with
17 the authority to adjudicate a current investigation file for
18 a national security position to help determine whether—

19 (1) investigation service providers are adhering
20 to Federal requirements, including requirements
21 under the Intelligence Reform and Terrorism Pre-
22 vention Act of 2004 (Public Law 108–458; 118
23 Stat. 3628) and requirements promulgated by the
24 Office of Personnel Management; and

1 (2) records provided are adequate to conduct
2 adjudications.

3 (b) CONTENTS.—Each survey under subsection (a)
4 shall consider the following:

5 (1) Punctuality of completed personnel security
6 investigations, including adherence to timelines re-
7 quired under section 3001 of the Intelligence Reform
8 and Terrorism Prevention Act of 2004 (50 U.S.C.
9 3341).

10 (2) Frequency that the adjudicator must seek
11 clarifying or additional information from the inves-
12 tigation service provider.

13 (3) Frequency that the adjudicator orders a full
14 or partial reinvestigation.

15 (4) Frequency that the adjudicator finds ad-
16 verse information after the completed background
17 investigation is submitted by the investigation serv-
18 ice provider.

19 (5) Frequency that the complete investigation
20 file, including investigative notes, is provided.

21 (6) Overall performance of the investigation
22 service provider.

23 (7) Satisfaction with the overall performance of
24 the investigation service provider.

1 (c) CORRECTIVE ACTION.—If information provided
2 under subsection (a) identifies a pattern of performance
3 problems with a particular investigation service provider,
4 the Chief Security Officer of the Department of Homeland
5 Security shall make a recommendation to the Secretary
6 of Homeland Security and, where appropriate, to the head
7 of each component or office of the Department that uses
8 the particular investigation service provider regarding cor-
9 rective action, including suspension or cancellation of serv-
10 ices.

11 (d) AVAILABILITY.—The Secretary of Homeland Se-
12 curity shall publish the results of each survey under sub-
13 section (a) and make each such publication publicly avail-
14 able on the website of the Department of Homeland Secu-
15 rity.

16 **SEC. 212. METRICS.**

17 The Secretary of Homeland Security shall utilize
18 metrics, including, to the extent practicable, any metrics
19 in use by the Office of Personnel Management as of the
20 date of the enactment of this Act, to assess the timeliness,
21 completeness, and overall quality of the provision of inves-
22 tigative services by investigation service providers.

1 **Subtitle C—Adjudication**

2 **SEC. 221. UNIFORM ADJUDICATION STANDARDS.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity, acting through the Chief Security Officer of the De-
5 partment of Homeland Security, shall issue uniform adju-
6 dication standards, consistent with part 147 of title 32,
7 Code of Federal Regulations, or similar successor regula-
8 tion to be utilized by Department adjudicators with re-
9 spect to adjudicating the eligibility of an individual for ac-
10 cess to classified information.

11 (b) CERTIFICATION.—Not later than one year after
12 the issuance of the uniform adjudication standards under
13 subsection (a), the Secretary of Homeland Security, acting
14 through the Chief Security Officer of the Department of
15 Homeland Security, shall require the head of each compo-
16 nent and office of the Department with the authority to
17 adjudicate access to classified information of an individual
18 to certify compliance with the uniform adjudication stand-
19 ards under subsection (a).

20 (c) AUDIT.—Not later than two years after the last
21 head of a component of the Department of Homeland Se-
22 curity certifies compliance under subsection (b) with the
23 uniform adjudication standards under subsection (a), the
24 Inspector General of the Department shall audit all such
25 components to verify such compliance.

1 **Subtitle D—Denial, Suspension,**
2 **Revocation, and Appeal**

3 **SEC. 231. UNIFORM REVOCATION CRITERIA AND PROCE-**
4 **DURES.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity, acting through the Chief Security Officer of the De-
7 partment of Homeland Security, shall issue a Department-
8 wide directive that sets forth uniform criteria and proce-
9 dures, consistent with any appropriate Federal Govern-
10 mentwide standards, including notice requirements, for
11 the suspension, denial, and revocation of eligibility for ac-
12 cess to classified information of an individual issued by
13 the Department.

14 (b) CERTIFICATION.—Not later than one year after
15 issuance of the uniform criteria and procedures under sub-
16 section (a), the Secretary of Homeland Security, acting
17 through the Chief Security Officer of the Department of
18 Homeland Security, shall require the head of each compo-
19 nent and office of the Department with the authority to
20 adjudicate eligibility for access to classified information of
21 an individual to certify compliance with such uniform cri-
22 teria and procedures.

23 **SEC. 232. ANNUAL REPORTING.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-
25 rity, acting through the Chief Security Officer of the De-

1 partment of Homeland Security, shall annually submit to
2 the Committee on Homeland Security and Governmental
3 Affairs of the Senate and the Committee on Homeland
4 Security of the House of Representatives a report on the
5 following:

6 (1) The number of denials, suspensions, revoca-
7 tions, and appeals of the eligibility for access to clas-
8 sified information of an individual throughout the
9 Department.

10 (2) The date and status or disposition of each
11 reported action under paragraph (1).

12 (3) The identification of the originator, whether
13 by a component or headquarters, of each adverse ac-
14 tion under paragraph (1), and description of the
15 grounds for each such action.

16 (4) Demographic data, including data relating
17 to race, sex, national origin, and disability, of each
18 individual for whom eligibility for access to classified
19 information was denied, suspended, revoked, or ap-
20 pealed, and the number of years that each such indi-
21 vidual was eligible for access to such information.

22 (5) In the case of a suspension in excess of 180
23 days, an explanation for the such timeframe.

24 (b) FORM.—The report required under subsection (a)
25 shall be submitted in unclassified form and be made pub-

1 lically available, but may include a classified annex for any
 2 sensitive or classified information if necessary.

3 **SEC. 233. FINAL APPEALS PANEL.**

4 (a) IN GENERAL.—The Secretary of Homeland Secu-
 5 rity shall establish an internal appeals 5-person panel for
 6 final national security clearance denial and revocation de-
 7 terminations that is comprised of designees who are ca-
 8 reer, supervisory employees from departmental compo-
 9 nents and headquarters.

10 (b) CHAIR.—The Chief Security Officer of the De-
 11 partment of Homeland Security shall serve as the chair
 12 of the panel established pursuant to subsection (a).

13 (c) POSITIONS.—At least two of the positions on the
 14 panel shall be held by non-security related supervisory em-
 15 ployees for not more than two consecutive years, and at
 16 least one position shall held by a security related super-
 17 visory employee for not more than three consecutive years.

18 (d) SUBPANELS.—

19 (1) IN GENERAL.—For each matter before the
 20 panel, a 3-person subpanel shall be convened by the
 21 chair, and may include the chairman.

22 (2) PROHIBITION.—The chair may not select a
 23 panelist to serve on a 3-person subpanel referred to
 24 in paragraph (1) from the same component or office
 25 of the Department of Homeland Security as from

1 which the matter before such subpanel originated or
2 who has a prior relationship with any of the individ-
3 uals involved in such matter.

4 (e) PROCEDURES.—

5 (1) IN GENERAL.—Each individual issued ac-
6 cess to classified information by the Department of
7 Homeland Security whose access is denied or re-
8 voked after a decision from a first-line deciding au-
9 thority and a supervisor of such first-line deciding
10 authority may appeal, in writing, to the 5-person ap-
11 peals panel and appear, with a representative, before
12 such panel to make a statement.

13 (2) RULINGS.—A simple majority of the ap-
14 peals panel is required to uphold or overturn a de-
15 nial or revocation.

16 (3) TIMING.—All determinations of the appeals
17 panel shall be rendered within 90 days of receipt of
18 an appeal under this section.

19 (4) FINALITY.—All determinations of the ap-
20 peals panel shall be final, and no further administra-
21 tive review shall be permitted.

Subtitle E—Miscellaneous Provisions

SEC. 241. INTELLIGENCE REFORM AND TERRORISM PRE- VENTION ACT OF 2004 REVIEW AND SECURITY CLEARANCE RECIPROCITY.

(a) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(1) the impact of the implementation of section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 3341) on security clearance processes, including—

(A) with respect to the quality of personnel security investigations and adjudications; and

(B) the extent to which the timelines specified in such section have impacted security clearance backlogs, and include recommendations for areas for reform; and

(2) the extent to which individuals with eligibility for access to classified information, adjudicated by the Secretary of Homeland Security or the head of a component or office of the Department

1 of Homeland Security, are granted reciprocity within
2 the Department and by other agencies, in accord-
3 ance with subsection (d) of section 3001 of the Intel-
4 ligence Reform and Terrorism Prevention Act of
5 2004 (50 U.S.C. 3341), including—

6 (A) the extent to which the lack of harmo-
7 nization of suitability standards is a barrier to
8 such reciprocity; and

9 (B) recommendations on whether such
10 standards should be included in interagency
11 reciprocity agreements.

12 (b) FORM.—The report required under subsection (a)
13 shall be submitted in unclassified form and be made pub-
14 licly available, but may include a classified annex for any
15 sensitive or classified information if necessary.

16 **SEC. 242. OFFICE OF INSPECTOR GENERAL REPORT.**

17 (a) IN GENERAL.—Not later than two years after the
18 date of the enactment of this Act, the Inspector General
19 of the Department of Homeland Security shall submit to
20 the Committee on Homeland Security and Governmental
21 Affairs of the Senate and the Committee on Homeland
22 Security of the House of Representatives a report on the
23 implementation of responsibilities and mandates of the
24 Department under this Act, and the amendments made
25 by this Act.

1 (b) FORM.—The report required under subsection (a)
2 shall be submitted in unclassified form and be made pub-
3 licly available, but may include a classified annex for any
4 sensitive or classified information if necessary.

5 **SEC. 243. PENALTIES FOR FALSIFICATION RELATING TO AN**
6 **INVESTIGATION FILE.**

7 Section 1001(a) of title 18, United States Code, is
8 amended by inserting at the end the following: “If the of-
9 fense involves an investigation file for a national security
10 position (as such term is defined in section 732.102 of
11 title 5, Code of Federal Regulations, or similar successor
12 regulation), then the maximum term of imprisonment oth-
13 erwise authorized under this section may be increased by
14 one year.”.

○