

PUBLIC LAW 106-120—DEC. 3, 1999

**INTELLIGENCE AUTHORIZATION ACT FOR
FISCAL YEAR 2000**

Public Law 106-120
106th Congress
An Act

Dec. 3, 1999
[H.R. 1555]

Intelligence
Authorization
Act for Fiscal
Year 2000.

To authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2000”.

(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. Authorization of emergency supplemental appropriations for fiscal year 1999.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

- Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Increase in employee compensation and benefits authorized by law.
- Sec. 302. Restriction on conduct of intelligence activities.
- Sec. 303. Diplomatic intelligence support centers.
- Sec. 304. Protection of identity of retired covert agents.
- Sec. 305. Access to computers and computer data of executive branch employees with access to classified information.
- Sec. 306. Naturalization of certain persons affiliated with a Communist or similar party.
- Sec. 307. Technical amendment.
- Sec. 308. Declassification review of intelligence estimate on Vietnam-era prisoners of war and missing in action personnel and critical assessment of estimate.
- Sec. 309. Report on legal standards applied for electronic surveillance.
- Sec. 310. Report on effects of foreign espionage on the United States.
- Sec. 311. Report on activities of the Central Intelligence Agency in Chile.
- Sec. 312. Report on Kosova Liberation Army.
- Sec. 313. Reaffirmation of longstanding prohibition against drug trafficking by employees of the intelligence community.
- Sec. 314. Sense of the Congress on classification and declassification.
- Sec. 315. Sense of the Congress on intelligence community contracting.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Improvement and extension of central services program.
- Sec. 402. Extension of CIA Voluntary Separation Pay Act.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Protection of operational files of the National Imagery and Mapping Agency.
Sec. 502. Funding for infrastructure and quality of life improvements at Menwith Hill and Bad Aibling stations.

TITLE VI—FOREIGN COUNTERINTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 601. Expansion of definition of “agent of a foreign power” for purposes of the Foreign Intelligence Surveillance Act of 1978.
Sec. 602. Federal Bureau of Investigation reports to other executive agencies on results of counterintelligence activities.

TITLE VII—NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

Sec. 701. Findings.
Sec. 702. National Commission for the Review of the National Reconnaissance Office.
Sec. 703. Duties of commission.
Sec. 704. Powers of commission.
Sec. 705. Staff of commission.
Sec. 706. Compensation and travel expenses.
Sec. 707. Treatment of information relating to national security.
Sec. 708. Final report; termination.
Sec. 709. Assessments of final report.
Sec. 710. Inapplicability of certain administrative provisions.
Sec. 711. Funding.
Sec. 712. Congressional intelligence committees defined.

TITLE VIII—INTERNATIONAL NARCOTICS TRAFFICKING

Sec. 801. Short title.
Sec. 802. Findings and policy.
Sec. 803. Purpose.
Sec. 804. Public identification of significant foreign narcotics traffickers and required reports.
Sec. 805. Blocking assets and prohibiting transactions.
Sec. 806. Authorities.
Sec. 807. Enforcement.
Sec. 808. Definitions.
Sec. 809. Exclusion of persons who have benefited from illicit activities of drug traffickers.
Sec. 810. Judicial Review Commission on Foreign Asset Control.
Sec. 811. Effective date.

TITLE I—INTELLIGENCE ACTIVITIES**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2000 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 Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The National Reconnaissance Office.
- (11) The National Imagery and Mapping Agency.

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, 2000, 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 conference report on the bill H.R. 1555 of the One Hundred Sixth Congress.

President.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The classified 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 2000 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 promptly notify 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 2000 the sum of \$170,672,000.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 348 full-time personnel as of September 30, 2000. Personnel serving in such elements may be permanent employees of the Community Management Account element 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 Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 2000 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, 2001.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 2000, there is hereby authorized such additional personnel for such elements as of that date as is 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 2000, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the 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 1 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), \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2001, and funds provided for procurement purposes shall remain available until September 30, 2002.

21 USC 873 note.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for activities of the 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. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999.

(a) AUTHORIZATION.—Amounts authorized to be appropriated for fiscal year 1999 under section 101 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31), for such amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) RATIFICATION.—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of amounts appropriated in the 1999 Emergency Supplemental Appropriations Act for intelligence activities is hereby ratified and confirmed, to the extent such amounts are designated by Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

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 2000 the sum of \$209,100,000.

TITLE III—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 authorized by the Constitution or the laws of the United States.

SEC. 303. DIPLOMATIC INTELLIGENCE SUPPORT CENTERS.

(a) **IN GENERAL.**—Title I 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:

50 USC 404j.

“LIMITATION ON ESTABLISHMENT OR OPERATION OF DIPLOMATIC INTELLIGENCE SUPPORT CENTERS

“SEC. 115. (a) IN GENERAL.—(1) A diplomatic intelligence support center may not be established, operated, or maintained without the prior approval of the Director of Central Intelligence.

“(2) The Director may only approve the establishment, operation, or maintenance of a diplomatic intelligence support center if the Director determines that the establishment, operation, or maintenance of such center is required to provide necessary intelligence support in furtherance of the national security interests of the United States.

“(b) PROHIBITION OF USE OF APPROPRIATIONS.—Amounts appropriated pursuant to authorizations by law for intelligence and intelligence-related activities may not be obligated or expended for the establishment, operation, or maintenance of a diplomatic intelligence support center that is not approved by the Director of Central Intelligence.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘diplomatic intelligence support center’ means an entity to which employees of the various elements of the intelligence community (as defined in section 3(4)) are detailed for the purpose of providing analytical intelligence support that—

“(A) consists of intelligence analyses on military or political matters and expertise to conduct limited assessments and dynamic taskings for a chief of mission; and

“(B) is not intelligence support traditionally provided to a chief of mission by the Director of Central Intelligence.

“(2) The term ‘chief of mission’ has the meaning given that term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(3)), and includes ambassadors at large and ministers of diplomatic missions of the United States, or persons appointed to lead United States offices abroad designated by the Secretary of State as diplomatic in nature.

“(d) TERMINATION.—This section shall cease to be effective on October 1, 2000.”.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 114 the following new item:

“Sec. 115. Limitation on establishment or operation of diplomatic intelligence support centers.”.

SEC. 304. PROTECTION OF IDENTITY OF RETIRED COVERT AGENTS.

(a) IN GENERAL.—Section 606(4)(A) of the National Security Act of 1947 (50 U.S.C. 426(4)(A)) is amended—

(1) by striking “an officer or employee” and inserting “a present or retired officer or employee”; and

(2) by striking “a member” and inserting “a present or retired member”.

(b) PRISON SENTENCES FOR VIOLATIONS.—

(1) IMPOSITION OF CONSECUTIVE SENTENCES.—Section 601 of the National Security Act of 1947 (50 U.S.C. 421) is amended by adding at the end the following new subsection:

“(d) A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.”.

(2) TECHNICAL AMENDMENTS.—Such section 601 is further amended—

(A) in subsection (a), by striking “shall be fined not more than \$50,000” and inserting “shall be fined under title 18, United States Code.”;

(B) in subsection (b), by striking “shall be fined not more than \$25,000” and inserting “shall be fined under title 18, United States Code.”; and

(C) in subsection (c), by striking “shall be fined not more than \$15,000” and inserting “shall be fined under title 18, United States Code.”.

SEC. 305. ACCESS TO COMPUTERS AND COMPUTER DATA OF EXECUTIVE BRANCH EMPLOYEES WITH ACCESS TO CLASSIFIED INFORMATION.

(a) ACCESS.—Section 801(a)(3) of the National Security Act of 1947 (50 U.S.C. 435(a)(3)) is amended by striking “and travel records” and inserting “travel records, and computers used in the performance of Government duties”.

(b) COMPUTER DEFINED.—Section 804 of that Act (50 U.S.C. 438) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

President.
Deadline.
50 USC 435 note.

“(8) the term ‘computer’ means any electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device and any data or other information stored or contained in such device.”.

(c) APPLICABILITY.—The President shall modify the procedures required by section 801(a)(3) of the National Security Act of 1947 to take into account the amendment to that section made by subsection (a) of this section not later than 90 days after the date of the enactment of this Act.

SEC. 306. NATURALIZATION OF CERTAIN PERSONS AFFILIATED WITH A COMMUNIST OR SIMILAR PARTY.

Section 313 of the Immigration and Nationality Act (8 U.S.C. 1424) is amended by adding at the end the following new subsection:

“(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) is otherwise eligible for naturalization;

“(2) is within the class described in subsection (a)(2) solely because of past membership in, or past affiliation with, a party or organization described in that subsection;

“(3) does not fall within any other of the classes described in that subsection; and

“(4) is determined by the Director of Central Intelligence, in consultation with the Secretary of Defense, and with the concurrence of the Attorney General, to have made a contribution to the national security or to the national intelligence mission of the United States.”.

SEC. 307. TECHNICAL AMENDMENT.

Section 305(b)(2) of the Intelligence Authorization Act for Fiscal Year 1997 (Public Law 104-293; 110 Stat. 3465; 8 U.S.C. 1427 note) is amended by striking “subparagraph (A), (B), (C), or (D) of section 243(h)(2) of such Act” and inserting “clauses (i) through (iv) of section 241(b)(3)(B) of such Act”.

SEC. 308. DECLASSIFICATION REVIEW OF INTELLIGENCE ESTIMATE ON VIETNAM-ERA PRISONERS OF WAR AND MISSING IN ACTION PERSONNEL AND CRITICAL ASSESSMENT OF ESTIMATE.

(a) DECLASSIFICATION REVIEW.—Subject to subsection (b), the Director of Central Intelligence shall review for declassification the following:

(1) National Intelligence Estimate 98-03 dated April 1998 and entitled “Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue”.

(2) The assessment dated November 1998 and entitled “A Critical Assessment of National Intelligence Estimate 98-03 prepared by the United States Chairman of the Vietnam War Working Group of the United States-Russia Joint Commission on POWs and MIAs”.

(b) LIMITATIONS.—The Director shall not declassify any text contained in the estimate or assessment referred to in subsection (a) which would—

(1) reveal intelligence sources and methods; or

(2) disclose by name the identity of a living foreign individual who has cooperated with United States efforts to account for missing personnel from the Vietnam era.

(c) DEADLINE.—The Director shall complete the declassification review of the estimate and assessment under subsection (a) not later than 30 days after the date of the enactment of this Act.

SEC. 309. REPORT ON LEGAL STANDARDS APPLIED FOR ELECTRONIC SURVEILLANCE.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Director of Central Intelligence, the Director of the National Security Agency, and the Attorney General shall jointly prepare, and the Director of the National Security Agency shall submit to the appropriate congressional committees, a report in classified and unclassified form providing a detailed analysis of the legal standards employed by elements of the intelligence community in conducting signals intelligence activities, including electronic surveillance. Deadline.

(b) MATTERS SPECIFICALLY ADDRESSED.—The report shall specifically include a statement of each of the following legal standards:

(1) The legal standards for interception of communications when such interception may result in the acquisition of information from a communication to or from United States persons.

(2) The legal standards for intentional targeting of the communications to or from United States persons.

(3) The legal standards for receipt from non-United States sources of information pertaining to communications to or from United States persons.

(4) The legal standards for dissemination of information acquired through the interception of the communications to or from United States persons.

(c) DEFINITIONS.—As used in this section:

(1) The term “intelligence community” has the meaning given that term under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term “United States persons” has the meaning given that term under section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

(3) The term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 310. REPORT ON EFFECTS OF FOREIGN ESPIONAGE ON THE UNITED STATES.

Not later than 270 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report describing the effects of espionage against the United States, conducted by or on behalf of other nations, on United States trade secrets, patents, and technology development. The report shall also include an analysis of other effects of such espionage on the United States. Deadline.

SEC. 311. REPORT ON ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY IN CHILE.

Deadline. (a) IN GENERAL.—By not later than 270 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report describing all activities of officers, covert agents, and employees of all elements in the intelligence community with respect to the following events in the Republic of Chile:

Augusto Pinochet. (1) The assassination of President Salvador Allende in September 1973.
(2) The accession of General Augusto Pinochet to the Presidency of the Republic of Chile.
(3) Violations of human rights committed by officers or agents of former President Pinochet.
(b) DEFINITION.—In this section, the term “appropriate congressional committees” means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

SEC. 312. REPORT ON KOSOVA LIBERATION ARMY.

Deadline. (a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate congressional committees a report (in both classified and unclassified form) on the organized resistance in Kosovo known as the Kosova Liberation Army. The report shall include the following:

(1) A summary of the history of the Kosova Liberation Army.
(2) As of the date of the enactment of this Act—
 (A) the number of individuals currently participating in or supporting combat operations of the Kosova Liberation Army (fielded forces), and the number of individuals in training for such service (recruits);
 (B) the types, and quantity of each type, of weapon employed by the Kosova Liberation Army, the training afforded to such fielded forces in the use of such weapons, and the sufficiency of such training to conduct effective military operations; and
 (C) minimum additional weaponry and training required to improve substantially the efficacy of such military operations.
(3) An estimate of the percentage of funding (if any) of the Kosova Liberation Army that is attributable to profits from the sale of illicit narcotics.
(4) A description of the involvement (if any) of the Kosova Liberation Army in terrorist activities.
(5) A description of the number of killings of noncombatant civilians (if any) carried out by the Kosova Liberation Army since its formation.
(6) A description of the leadership of the Kosova Liberation Army, including an analysis of—
 (A) the political philosophy and program of the leadership; and
 (B) the sentiment of the leadership toward the United States.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term “appropriate congressional committees” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

SEC. 313. REAFFIRMATION OF LONGSTANDING PROHIBITION AGAINST DRUG TRAFFICKING BY EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

50 USC 403-8.

(a) FINDING.—Congress finds that longstanding statutes, regulations, and policies of the United States prohibit employees, agents, and assets of the elements of the intelligence community, and of every other Federal department and agency, from engaging in the illegal manufacture, purchase, sale, transport, and distribution of drugs.

(b) OBLIGATION OF EMPLOYEES OF INTELLIGENCE COMMUNITY.—Any employee of the intelligence community having knowledge of a fact or circumstance that reasonably indicates that an employee, agent, or asset of an element of the intelligence community is involved in any activity that violates a statute, regulation, or policy described in subsection (a) shall report such knowledge to an appropriate official.

(c) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 314. SENSE OF THE CONGRESS ON CLASSIFICATION AND DECLASSIFICATION.

It is the sense of the Congress that the systematic declassification of records of permanent historical value is in the public interest and that the management of classification and declassification by executive branch agencies requires comprehensive reform and the dedication by the executive branch of additional resources.

SEC. 315. SENSE OF THE CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of the Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. IMPROVEMENT AND EXTENSION OF CENTRAL SERVICES PROGRAM.

(a) SCOPE OF PROVISION OF ITEMS AND SERVICES.—Subsection (a) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended by striking “and to other” and inserting

“, nonappropriated fund entities or instrumentalities associated or affiliated with the Agency, and other”.

(b) DEPOSITS IN CENTRAL SERVICES WORKING CAPITAL FUND.—Subsection (c)(2) of that section is amended—

(1) by amending subparagraph (D) to read as follows:

“(D) Amounts received in payment for loss or damage to equipment or property of a central service provider as a result of activities under the program.”;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D), as so amended, the following new subparagraph (E):

“(E) Other receipts from the sale or exchange of equipment or property of a central service provider as a result of activities under the program.”.

(c) AVAILABILITY OF FEES.—Subsection (f)(2)(A) of that section is amended by inserting “central service providers and any” before “elements of the Agency”.

(d) EXTENSION OF PROGRAM.—Subsection (h)(1) of that section is amended by striking “March 31, 2000” and inserting “March 31, 2002”.

SEC. 402. EXTENSION OF CIA VOLUNTARY SEPARATION PAY ACT.

(a) EXTENSION OF AUTHORITY.—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended by striking “September 30, 1999” and inserting “September 30, 2002”.

(b) REMITTANCE OF FUNDS.—Section 2(i) of that Act is amended by striking “or fiscal year 1999” and inserting “, 1999, 2000, 2001, or 2002”.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) IN GENERAL.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 105A (50 U.S.C. 403-5a) the following new section:

50 USC 403-5b.

“PROTECTION OF OPERATIONAL FILES OF THE NATIONAL IMAGERY AND MAPPING AGENCY

“SEC. 105B. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Imagery and Mapping Agency, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Imagery and Mapping Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

“(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ‘operational files’ means files of the National Imagery and Mapping Agency (hereafter in this section referred to as ‘NIMA’) concerning the activities of NIMA that before the

establishment of NIMA were performed by the National Photographic Interpretation Center of the Central Intelligence Agency (NPIC), that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

“(B) Files which are the sole repository of disseminated intelligence are not operational files.

“(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

“(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

“(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

“(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(i) The Permanent Select Committee on Intelligence of the House of Representatives.

“(ii) The Select Committee on Intelligence of the Senate.

“(iii) The Intelligence Oversight Board.

“(iv) The Department of Justice.

“(v) The Office of General Counsel of NIMA.

“(vi) The Office of the Director of NIMA.

“(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

“(C) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

“(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NIMA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

“(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations

Courts.

is filed with, or produced for, the court by NIMA, such information shall be examined *ex parte*, *in camera* by the court.

“(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

“(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NIMA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

“(II) The court may not order NIMA to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NIMA’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(vi) If the court finds under this paragraph that NIMA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NIMA to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

“(vii) If at any time following the filing of a complaint pursuant to this paragraph NIMA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

“(b) DECENTNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—

(1) Not less than once every 10 years, the Director of the National Imagery and Mapping Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that NIMA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether NIMA has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether NIMA, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.”.

(2) The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 105A the following new item:

“Sec. 105B. Protection of operational files of the National Imagery and Mapping Agency.”.

(b) TREATMENT OF CERTAIN TRANSFERRED RECORDS.—Any record transferred to the National Imagery and Mapping Agency from exempted operational files of the Central Intelligence Agency covered by section 701(a) of the National Security Act of 1947 (50 U.S.C. 431(a)) shall be placed in the operational files of the National Imagery and Mapping Agency that are established pursuant to section 105B of the National Security Act of 1947, as added by subsection (a).

50 USC 403-5b
note.

SEC. 502. FUNDING FOR INFRASTRUCTURE AND QUALITY OF LIFE IMPROVEMENTS AT MENWITH HILL AND BAD AIBLING STATIONS.

Section 506(b) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104-93; 109 Stat. 974), as amended by section 502 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107; 111 Stat. 2262), is further amended by striking “for fiscal years 1998 and 1999” and inserting “for fiscal years 2000 and 2001”.

TITLE VI—FOREIGN COUNTERINTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. EXPANSION OF DEFINITION OF “AGENT OF A FOREIGN POWER” FOR PURPOSES OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 101(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(2)) is amended—

(1) in subparagraph (C), by striking “or” at the end;
(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

“(D) knowingly enters the United States under a false or fraudulent identity for or on behalf of a foreign power or, while in the United States, knowingly assumes a false

or fraudulent identity for or on behalf of a foreign power; or.

SEC. 602. FEDERAL BUREAU OF INVESTIGATION REPORTS TO OTHER EXECUTIVE AGENCIES ON RESULTS OF COUNTERINTELLIGENCE ACTIVITIES.

Section 811(c)(2) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 108 Stat. 3455; 50 U.S.C. 402a(c)(2)) is amended by striking “after a report has been provided pursuant to paragraph (1)(A)”.

TITLE VII—NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE

50 USC 401 note.

SEC. 701. FINDINGS.

Congress makes the following findings:

(1) Imagery and signals intelligence satellites are vitally important to the security of the Nation.

(2) The National Reconnaissance Office (in this title referred to as the “NRO”) and its predecessor organizations have helped protect and defend the United States for more than 30 years.

(3) The end of the Cold War and the enormous growth in usage of information technology have changed the environment in which the intelligence community must operate. At the same time, the intelligence community has undergone significant changes in response to dynamic developments in strategy and in budgetary matters. The acquisition and maintenance of satellite systems are essential to providing timely intelligence to national policymakers and achieving information superiority for military leaders.

(4) There is a need to evaluate the roles and mission, organizational structure, technical skills, contractor relationships, use of commercial imagery, acquisition of launch vehicles, launch services, and launch infrastructure, mission assurance, acquisition authorities, and relationship to other agencies and departments of the Federal Government of the NRO in order to assure continuing success in satellite reconnaissance in the new millennium.

50 USC 401 note.

SEC. 702. NATIONAL COMMISSION FOR THE REVIEW OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “National Commission for the Review of the National Reconnaissance Office” (in this title referred to as the “Commission”).

(b) **COMPOSITION.**—The Commission shall be composed of 11 members, as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) Three members appointed by the Majority Leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

(3) Two members appointed by the Minority Leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

(4) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

(5) Two members appointed by the Minority Leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

The Director of the National Reconnaissance Office shall be an ex officio member of the Commission.

(c) MEMBERSHIP.—(1) The individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

(A) technical intelligence collection systems and methods;

(B) research and development programs;

(C) acquisition management;

(D) use of intelligence information by national policymakers and military leaders; or

(E) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(d) CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.

(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the Majority Leader of the Senate, the Minority Leader of the Senate, and Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act. Deadline.

(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day.

(g) ACTIONS OF COMMISSION.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

50 USC 401 note.

SEC. 703. DUTIES OF COMMISSION.

(a) IN GENERAL.—The duties of the Commission shall be—
 (1) to conduct, until not later than the date on which the Commission submits the report under section 708(a), the review described in subsection (b); and

(2) to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on the results of the review.

(b) REVIEW.—The Commission shall review the current organization, practices, and authorities of the NRO, in particular with respect to—

(1) roles and mission;
 (2) organizational structure;
 (3) technical skills;
 (4) contractor relationships;
 (5) use of commercial imagery;
 (6) acquisition of launch vehicles, launch services, and launch infrastructure, and mission assurance;
 (7) acquisition authorities; and
 (8) relationships with other agencies and departments of the Federal Government.

50 USC 401 note.

SEC. 704. POWERS OF COMMISSION.

(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.

(2) Subpoenas may be issued under paragraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

Reports.

(3) The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section. Applicability.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Director of Central Intelligence shall provide to the Commission, on a non-reimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

(e) PROHIBITION ON WITHHOLDING INFORMATION.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

SEC. 705. STAFF OF COMMISSION.

50 USC 401 note.

(a) IN GENERAL.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States

Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(b) CONSULTANT SERVICES.—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

50 USC 401 note.

SEC. 706. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

50 USC 401 note.

SEC. 707. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

(a) IN GENERAL.—(1) The Director of Central Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

(b) ACCESS AFTER TERMINATION OF COMMISSION.—Notwithstanding any other provision of law, after the termination of the Commission under section 708, only the Members and designated staff of the congressional intelligence committees, the Director of

Central Intelligence and the designees of the Director, and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

SEC. 708. FINAL REPORT; TERMINATION.

50 USC 401 note.

(a) FINAL REPORT.—Not later than November 1, 2000, 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 703(a).

Deadline.

(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to committees of Congress concerning the final report referred to in that paragraph and disseminating the report.

SEC. 709. ASSESSMENTS OF FINAL REPORT.

50 USC 401 note.

Not later than 60 days after receipt of the final report under section 708(a), the Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

Deadline.

SEC. 710. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

50 USC 401 note.

(a) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

(b) FREEDOM OF INFORMATION ACT.—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

SEC. 711. FUNDING.

50 USC 401 note.

(a) TRANSFER FROM NRO.—Of the amounts authorized to be appropriated by this Act for the National Reconnaissance Office, the Director of the National Reconnaissance Office shall transfer to the Director of Central Intelligence \$5,000,000 for purposes of the activities of the Commission under this title.

(b) AVAILABILITY IN GENERAL.—The Director of Central Intelligence shall make available to the Commission, from the amount transferred to the Director under subsection (a), such amounts as the Commission may require for purposes of the activities of the Commission under this title.

(c) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (b) shall remain available until expended.

50 USC 401 note.

SEC. 712. CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.

In this title, the term “congressional intelligence committees” means the following:

- (1) The Select Committee on Intelligence of the Senate.
- (2) The Permanent Select Committee on Intelligence of the House of Representatives.

Foreign Narcotics
Kingpin
Designation Act.

21 USC 1901
note.

TITLE VIII—INTERNATIONAL NARCOTICS TRAFFICKING

21 USC 1901.

SEC. 801. SHORT TITLE.

This title may be cited as the “Foreign Narcotics Kingpin Designation Act”.

SEC. 802. FINDINGS AND POLICY.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Presidential Decision Directive 42, issued on October 21, 1995, ordered agencies of the executive branch of the United States Government to, *inter alia*, increase the priority and resources devoted to the direct and immediate threat international crime presents to national security, work more closely with other governments to develop a global response to this threat, and use aggressively and creatively all legal means available to combat international crime.

(2) Executive Order No. 12978 of October 21, 1995, provides for the use of the authorities in the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.) to target and apply sanctions to four international narcotics traffickers and their organizations that operate from Colombia.

(3) IEEPA was successfully applied to international narcotics traffickers in Colombia and based on that successful case study, Congress believes similar authorities should be applied worldwide.

(4) There is a national emergency resulting from the activities of international narcotics traffickers and their organizations that threatens the national security, foreign policy, and economy of the United States.

(b) **POLICY.**—It shall be the policy of the United States to apply economic and other financial sanctions to significant foreign narcotics traffickers and their organizations worldwide to protect the national security, foreign policy, and economy of the United States from the threat described in subsection (a)(4).

21 USC 1902.

SEC. 803. PURPOSE.

The purpose of this title is to provide authority for the identification of, and application of sanctions on a worldwide basis to, significant foreign narcotics traffickers, their organizations, and the foreign persons who provide support to those significant foreign narcotics traffickers and their organizations, whose activities threaten the national security, foreign policy, and economy of the United States.

President.
21 USC 1903.

**SEC. 804. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN
NARCOTICS TRAFFICKERS AND REQUIRED REPORTS.**

(a) **PROVISION OF INFORMATION TO THE PRESIDENT.**—The Secretary of the Treasury, the Attorney General, the Secretary

of Defense, the Secretary of State, and the Director of Central Intelligence shall consult among themselves and provide the appropriate and necessary information to enable the President to submit the report under subsection (b). This information shall also be provided to the Director of the Office of National Drug Control Policy.

(b) PUBLIC IDENTIFICATION AND SANCTIONING OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS.—Not later than June 1, 2000, and not later than June 1 of each year thereafter, the President shall submit a report to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives; and to the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate—

Deadline.

(1) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this title; and

(2) detailing publicly the President's intent to impose sanctions upon these significant foreign narcotics traffickers pursuant to this title.

The report required in this subsection shall not include information on persons upon which United States sanctions imposed under this title, or otherwise on account of narcotics trafficking, are already in effect.

(c) UNCLASSIFIED REPORT REQUIRED.—The report required by subsection (b) shall be submitted in unclassified form and made available to the public.

Public information.

(d) CLASSIFIED REPORT.—(1) Not later than July 1, 2000, and not later than July 1 of each year thereafter, the President shall provide the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate with a report in classified form describing in detail the status of the sanctions imposed under this title, including the personnel and resources directed towards the imposition of such sanctions during the preceding fiscal year, and providing background information with respect to newly-identified significant foreign narcotics traffickers and their activities.

Deadline.

(2) Such classified report shall describe actions the President intends to undertake or has undertaken with respect to such significant foreign narcotics traffickers.

(3) The report required under this subsection is in addition to the President's obligations to keep the intelligence committees of Congress fully and currently informed pursuant to the provisions of the National Security Act of 1947.

(e) EXCLUSION OF CERTAIN INFORMATION.—

(1) INTELLIGENCE.—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the identity of any person, if the Director of Central Intelligence determines that such disclosure could compromise an intelligence operation, activity, source, or method of the United States.

(2) LAW ENFORCEMENT.—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the name of any person if the Attorney General, in coordination as appropriate with the Director of the Federal Bureau of Investigation, the Administrator of the

Drug Enforcement Administration, and the Secretary of the Treasury, determines that such disclosure could reasonably be expected to—

(A) compromise the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis;

(B) jeopardize the integrity or success of an ongoing criminal investigation or prosecution;

(C) endanger the life or physical safety of any person; or

(D) cause substantial harm to physical property.

(f) NOTIFICATION REQUIRED.—(1) Whenever either the Director of Central Intelligence or the Attorney General makes a determination under subsection (e), the Director of Central Intelligence or the Attorney General shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and explain the reasons for such determination.

Deadline.

(2) The notification required under this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate not later than July 1, 2000, and on an annual basis thereafter.

(g) DETERMINATIONS NOT TO APPLY SANCTIONS.—(1) The President may waive the application to a significant foreign narcotics trafficker of any sanction authorized by this title if the President determines that the application of sanctions under this title would significantly harm the national security of the United States.

Notification.
Deadline.

(2) When the President determines not to apply sanctions that are authorized by this title to any significant foreign narcotics trafficker, the President shall notify the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate not later than 21 days after making such determination.

Public
information.

(h) CHANGES IN DETERMINATIONS TO IMPOSE SANCTIONS.—

(1) ADDITIONAL DETERMINATIONS.—(A) If at any time after the report required under subsection (b) the President finds that a foreign person is a significant foreign narcotics trafficker and such foreign person has not been publicly identified in a report required under subsection (b), the President shall submit an additional public report containing the information described in subsection (b) with respect to such foreign person to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate.

(B) The President may apply sanctions authorized under this title to the significant foreign narcotics trafficker identified in the report submitted under subparagraph (A) as if the trafficker were originally included in the report submitted pursuant to subsection (b) of this section.

(C) The President shall notify the Secretary of the Treasury of any determination made under this paragraph. Notification.

(2) REVOCATION OF DETERMINATION.—(A) Whenever the President finds that a foreign person that has been publicly identified as a significant foreign narcotics trafficker in the report required under subsection (b) or this subsection no longer engages in those activities for which sanctions under this title may be applied, the President shall issue public notice of such a finding. Notice.

(B) Not later than the date of the public notice issued pursuant to subparagraph (A), the President shall notify, in writing and in classified or unclassified form, the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate of actions taken under this paragraph and a description of the basis for such actions. Deadline.
Notification.

SEC. 805. BLOCKING ASSETS AND PROHIBITING TRANSACTIONS.

21 USC 1904.

(a) APPLICABILITY OF SANCTIONS.—A significant foreign narcotics trafficker publicly identified in the report required under subsection (b) or (h)(1) of section 804 and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section shall be subject to any and all sanctions as authorized by this title. The application of sanctions on any foreign person pursuant to subsection (b) or (h)(1) of section 804 or subsection (b) of this section shall remain in effect until revoked pursuant to section 804(h)(2) or subsection (e)(1)(A) of this section or waived pursuant to section 804(g)(1).

(b) BLOCKING OF ASSETS.—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this title, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 804, there are blocked as of such date, and any date thereafter, all such property and interests in property within the United States, or within the possession or control of any United States person, which are owned or controlled by—

(1) any significant foreign narcotics trafficker publicly identified by the President in the report required under subsection (b) or (h)(1) of section 804;

(2) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 804, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection;

(3) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as owned, controlled, or directed by, or acting for or on behalf of, a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 804, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection; and

(4) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as playing a significant role in international narcotics trafficking.

(c) PROHIBITED TRANSACTIONS.—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this title, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 804, the following transactions are prohibited:

(1) Any transaction or dealing by a United States person, or within the United States, in property or interests in property of any significant foreign narcotics trafficker so identified in the report required pursuant to subsection (b) or (h)(1) of section 804, and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section.

(2) Any transaction or dealing by a United States person, or within the United States, that evades or avoids, or has the effect of evading or avoiding, and any endeavor, attempt, or conspiracy to violate, any of the prohibitions contained in this title.

(d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this title prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(e) IMPLEMENTATION.—(1) The Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, is authorized to take such actions as may be necessary to carry out this title, including—

(A) making those designations authorized by paragraphs (2), (3), and (4) of subsection (b) of this section and revocation thereof;

(B) promulgating rules and regulations permitted under this title; and

(C) employing all powers conferred on the Secretary of the Treasury under this title.

(2) Each agency of the United States shall take all appropriate measures within its authority to carry out the provisions of this title.

(3) Section 552(a)(3) of title 5, United States Code, shall not apply to any record or information obtained or created in the implementation of this title.

(f) JUDICIAL REVIEW.—The determinations, identifications, findings, and designations made pursuant to section 804 and subsection (b) of this section shall not be subject to judicial review.

SEC. 806. AUTHORITIES.

21 USC 1905.

(a) IN GENERAL.—To carry out the purposes of this title, the Secretary of the Treasury may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(1) investigate, regulate, or prohibit—

(A) any transactions in foreign exchange, currency, or securities; and

(B) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interests of any foreign country or a national thereof; and

(2) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent, or prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, placement into foreign or domestic commerce of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) RECORDKEEPING.—Pursuant to subsection (a), the Secretary of the Treasury may require recordkeeping, reporting, and production of documents to carry out the purposes of this title.

(c) DEFENSES.—

(1) Full and actual compliance with any regulation, order, license, instruction, or direction issued under this title shall be a defense in any proceeding alleging a violation of any of the provisions of this title.

(2) No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to, and in reliance on this title, or any regulation, instruction, or direction issued under this title.

(d) RULEMAKING.—The Secretary of the Treasury may issue such other regulations or orders, including regulations prescribing recordkeeping, reporting, and production of documents, definitions, licenses, instructions, or directions, as may be necessary for the exercise of the authorities granted by this title.

SEC. 807. ENFORCEMENT.

21 USC 1906.

(a) CRIMINAL PENALTIES.—(1) Whoever willfully violates the provisions of this title, or any license rule, or regulation issued pursuant to this title, or willfully neglects or refuses to comply with any order of the President issued under this title shall be—

(A) imprisoned for not more than 10 years,

(B) fined in the amount provided in title 18, United States Code, or, in the case of an entity, fined not more than \$10,000,000,
or both.

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of this title shall be imprisoned for not more than 30 years, fined not more than \$5,000,000, or both.

(b) CIVIL PENALTIES.—A civil penalty not to exceed \$1,000,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this title.

(c) JUDICIAL REVIEW OF CIVIL PENALTY.—Any penalty imposed under subsection (b) shall be subject to judicial review only to the extent provided in section 702 of title 5, United States Code.

21 USC 1907.

SEC. 808. DEFINITIONS.

As used in this title:

(1) ENTITY.—The term “entity” means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

(2) FOREIGN PERSON.—The term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, but does not include a foreign state.

(3) NARCOTICS TRAFFICKING.—The term “narcotics trafficking” means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

(4) NARCOTIC DRUG; CONTROLLED SUBSTANCE; LISTED CHEMICAL.—The terms “narcotic drug”, “controlled substance”, and “listed chemical” have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) PERSON.—The term “person” means an individual or entity.

(6) UNITED STATES PERSON.—The term “United States person” means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

(7) SIGNIFICANT FOREIGN NARCOTICS TRAFFICKER.—The term “significant foreign narcotics trafficker” means any foreign person that plays a significant role in international narcotics trafficking, that the President has determined to be appropriate for sanctions pursuant to this title, and that the President has publicly identified in the report required under subsection (b) or (h)(1) of section 804.

SEC. 809. EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF DRUG TRAFFICKERS.

Section 212(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(C)) is amended to read as follows:

“(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien who the consular officer or the Attorney General knows or has reason to believe—

“(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the

illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

“(ii) is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.”.

SEC. 810. JUDICIAL REVIEW COMMISSION ON FOREIGN ASSET CONTROL.

21 USC 1908.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “Judicial Review Commission on Foreign Asset Control” (in this section referred to as the “Commission”).

(b) **MEMBERSHIP AND PROCEDURAL MATTERS.**—(1) The Commission shall be composed of five members, as follows:

(A) One member shall be appointed by the Chairman of the Select Committee on Intelligence of the Senate.

(B) One member shall be appointed by the Vice Chairman of the Select Committee on Intelligence of the Senate.

(C) One member shall be appointed by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives.

(D) One member shall be appointed by the Ranking Minority Member of the Permanent Select Committee on Intelligence of the House of Representatives.

(E) One member shall be appointed jointly by the members appointed under subparagraphs (A) through (D).

(2) Each member of the Commission shall, for purposes of the activities of the Commission under this section, possess or obtain an appropriate security clearance in accordance with applicable laws and regulations regarding the handling of classified information.

(3) The members of the Commission shall choose the chairman of the Commission from among the members of the Commission.

(4) The members of the Commission shall establish rules governing the procedures and proceedings of the Commission.

(c) **DUTIES.**—The Commission shall have as its duties the following:

(1) To conduct a review of the current judicial, regulatory, and administrative authorities relating to the blocking of assets of foreign persons by the United States Government.

(2) To conduct a detailed examination and evaluation of the remedies available to United States persons affected by the blocking of assets of foreign persons by the United States Government.

(d) **POWERS.**—(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this section. Each such department, agency, bureau, board, commission,

office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the chairman of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(3) The Attorney General and the Secretary of the Treasury shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, facilities, and other support services as are necessary for the performance of the Commission's duties under this section.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this section, including the provision of full and current briefings and analyses.

(5) No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(6) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(e) STAFF.—(1) Subject to paragraph (2), the chairman of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2)(A) Any employee of a department or agency referred to in subparagraph (B) may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(B) The departments and agencies referred to in this subparagraph are as follows:

- (i) The Department of Justice.
- (ii) The Department of the Treasury.
- (iii) The Central Intelligence Agency.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(f) COMPENSATION AND TRAVEL EXPENSES.—(1)(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this section.

(B) Members of the Commission who are officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(g) REPORT.—(1) Not later than 1 year after the date of the enactment of this Act, the Commissions shall submit to the committees of Congress referred to in paragraph (4) a report on the activities of the Commission under this section, including the findings, conclusions, and recommendations, if any, of the Commission as a result of the review under subsection (c)(1) and the examination and evaluation under subsection (c)(2).

Deadline.

(2) The report under paragraph (1) shall include any additional or dissenting views of a member of the Commission upon the request of the member.

(3) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) The committees of Congress referred to in this paragraph are the following:

(A) The Select Committee on Intelligence and the Committees on Foreign Relations and the Judiciary of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committees on International Relations and the Judiciary of the House of Representatives.

(h) TERMINATION.—The Commission shall terminate at the end of the 60-day period beginning on the date on which the report required by subsection (g) is submitted to the committees of Congress referred to in that subsection.

(i) INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—

(1) The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this section.

(2) The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

(j) FUNDING.—The Attorney General shall, from amounts authorized to be appropriated to the Attorney General by this Act, make available to the Commission \$1,000,000 for purposes of the activities of the Commission under this section. Amounts made available to the Commission under the preceding sentence shall remain available until expended.

21 USC 1901
note.

SEC. 811. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

Approved December 3, 1999.

LEGISLATIVE HISTORY—H.R. 1555 (S. 1009):

HOUSE REPORTS: Nos. 106-130, Pt. 1 (Select Comm. on Intelligence) and 106-457 (Comm. of Conference).

SENATE REPORTS: No. 106-48 accompanying S. 1009 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 145 (1999):

May 13, considered and passed House.

July 20, 21, considered and passed Senate, amended.

Nov. 9, House agreed to conference report.

Nov. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):
Dec. 3, Presidential statement.

