

108TH CONGRESS  
1ST SESSION

# S. 410

To establish the Homeland Intelligence Agency, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2003

Mr. EDWARDS introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To establish the Homeland Intelligence Agency, 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 TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Foreign Intelligence Collection Improvement Act of  
6 2003”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

**TITLE I—HOMELAND INTELLIGENCE AGENCY**

Sec. 101. Short title.

Sec. 102. Definitions.

Subtitle A—Establishment

Sec. 111. Homeland Intelligence Agency.  
 Sec. 112. Mission.  
 Sec. 113. Officers.  
 Sec. 114. Inspector general.  
 Sec. 115. Office of Privacy and Civil Liberties Protection.  
 Sec. 116. Office of Federal, State, and Local Law Enforcement Coordination.  
 Sec. 117. Seal.

Subtitle B—Authorities

Sec. 121. Personnel training.  
 Sec. 122. Dissemination of information.  
 Sec. 123. Guidelines on collection of foreign intelligence and counterintelligence inside the United States.  
 Sec. 124. Coordination with Central Intelligence Agency overseas.  
 Sec. 125. Treatment as element of intelligence community.  
 Sec. 126. Inclusion within National Foreign Intelligence Program.  
 Sec. 127. Foreign intelligence surveillance activities.  
 Sec. 128. Annual reports.

Subtitle C—Transfer of Functions

Sec. 141. Transfer of functions.  
 Sec. 142. Reorganization.  
 Sec. 143. Transfer and allocation of appropriations and personnel.  
 Sec. 144. Incidental transfers.  
 Sec. 145. Effect on personnel.  
 Sec. 146. Savings provisions.  
 Sec. 147. Transition.  
 Sec. 148. References.

Subtitle D—Conforming Amendments

Sec. 151. Executive schedule.  
 Sec. 152. Department of Homeland Security Act.  
 Sec. 153. National Security Act of 1947.

TITLE II—FEDERAL BUREAU OF INVESTIGATION

Sec. 201. Termination of functions and responsibilities of Federal Bureau of Investigation as element of the intelligence community.  
 Sec. 202. Office of Foreign Intelligence Coordination.  
 Sec. 203. Improvement of coordination of counterintelligence activities.

TITLE III—SURVEILLANCE MATTERS

Subtitle A—Foreign Intelligence Surveillance Reports

Sec. 301. Short title.  
 Sec. 302. Additional matters in annual reports on surveillance under Foreign Intelligence Surveillance Act of 1978.

Subtitle B—Participation in Religious and Political Groups for Foreign Intelligence and International Terrorism Purposes

Sec. 311. Participation in religious and political groups for foreign intelligence and international terrorism purposes.

Subtitle C—Effective Date

Sec. 321. Effective date.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) In the wake of the terrorist attacks on the  
5 United States of September 11, 2001, the Select  
6 Committee on Intelligence of the Senate and the  
7 Permanent Select Committee on Intelligence of the  
8 House of Representatives conducted a joint inquiry  
9 to examine the performance of the elements of the  
10 Intelligence Community of the United States Gov-  
11 ernment before those attacks.

12 (2) The findings of the joint inquiry revealed  
13 that the Federal Bureau of Investigation had failed  
14 to merge properly and perform effectively its dual  
15 missions of law enforcement and the collection, anal-  
16 ysis, and dissemination of foreign intelligence inside  
17 the United States.

18 (3) This failure by the Federal Bureau of In-  
19 vestigation contributed to the inability of the United  
20 States to predict and prevent the terrorist attacks of  
21 September 11, 2001.

1           (4) The current and proposed changes in per-  
2           sonnel and procedures at the Federal Bureau of In-  
3           vestigation since September 11, 2001, are not likely  
4           to result in a significant improvement in the collec-  
5           tion, analysis, and dissemination of foreign intel-  
6           ligence inside the United States because the law en-  
7           forcement responsibilities of the Bureau are incon-  
8           sistent with, and will continue to undermine, its abil-  
9           ity to be an effective intelligence agency.

10          (b) PURPOSE.—It is the purpose of this Act to create  
11          a new element of the Intelligence Community of the  
12          United States Government, within the Department of  
13          Homeland Security, whose primary mission will be the col-  
14          lection and dissemination of foreign intelligence and coun-  
15          terintelligence inside the United States, including the  
16          plans, intentions, and capabilities of international terrorist  
17          groups operating in the United States. The mission of  
18          such entity, the Homeland Intelligence Agency, shall be  
19          conducted with appropriate respect for the privacy and  
20          civil liberties of United States persons.

21                           **TITLE I—HOMELAND**  
22                           **INTELLIGENCE AGENCY**

23          **SEC. 101. SHORT TITLE.**

24           This title may be cited as the “Homeland Intelligence  
25          Agency Act of 2003”.

1 **SEC. 102. DEFINITIONS.**

2 In this title:

3 (1) CONGRESSIONAL INTELLIGENCE COMMIT-  
4 TEES.—The term “congressional intelligence com-  
5 mittees” has the meaning given that term in section  
6 3 of the National Security Act of 1947 (50 U.S.C.  
7 401a), as amended by section 353 of the Intelligence  
8 Authorization Act for Fiscal Year 2003 (Public Law  
9 107–306).

10 (2) APPROPRIATE COMMITTEES OF CON-  
11 GRESS.—The term “appropriate committees of Con-  
12 gress” means—

13 (A) the Select Committee on Intelligence  
14 and the Committee on the Judiciary of the Sen-  
15 ate; and

16 (B) the Permanent Select Committee on  
17 Intelligence and the Committee on the Judici-  
18 ary of the House of Representatives.

19 (2) UNITED STATES.—The term “United  
20 States”, when used in a geographic sense, means  
21 any State of the United States, the District of Co-  
22 lumbia, the Commonwealth of Puerto Rico, the Vir-  
23 gin Islands, Guam, American Samoa, the Common-  
24 wealth of the Northern Mariana Islands, any posses-  
25 sion of the United States, and any waters within the  
26 jurisdiction of the United States.

1           (3) INTELLIGENCE-RELATED DEFINITIONS.—  
2           The terms “intelligence”, “foreign intelligence”, and  
3           “counterintelligence” have the meaning given such  
4           terms in section 3 of the National Security Act of  
5           1947 (50 U.S.C. 401a).

6           (4) SURVEILLANCE-RELATED DEFINITIONS.—  
7           The terms “foreign power”, “agent of a foreign  
8           power”, and “United States person” have the mean-  
9           ing given such terms in section 101 of the Foreign  
10          Intelligence Surveillance Act of 1978 (50 U.S.C.  
11          1801).

## 12           **Subtitle A—Establishment**

### 13          **SEC. 111. HOMELAND INTELLIGENCE AGENCY.**

14          (a) ESTABLISHMENT.—There is established the  
15          Homeland Intelligence Agency.

16          (b) ELEMENT OF DEPARTMENT OF HOMELAND SE-  
17          CURITY.—The Homeland Intelligence Agency is an ele-  
18          ment of the Department of Homeland Security.

19          (c) MISSION.—The Homeland Intelligence Agency  
20          shall carry out the mission specified in section 112.

### 21          **SEC. 112. MISSION.**

22          (a) IN GENERAL.—The mission of the Homeland In-  
23          telligence Agency shall be to support the Director of Cen-  
24          tral Intelligence in discharging the responsibilities of the  
25          Director as the head of the intelligence community under

1 section 103 of the National Security Act of 1947 (50  
2 U.S.C. 403–3) in the manner as follows:

3 (1) By serving as the primary entity within the  
4 United States Government responsible for collecting  
5 foreign intelligence on the plans, intentions, and ca-  
6 pabilities of international terrorists and terrorist  
7 groups operating inside the United States.

8 (2) By conducting operations to collect foreign  
9 intelligence and counterintelligence within the  
10 United States, including foreign intelligence and  
11 counterintelligence regarding United States persons,  
12 through human sources and by other lawful intel-  
13 ligence collection means.

14 (3) By conducting operations to collect foreign  
15 intelligence and counterintelligence through the use  
16 of electronic surveillance and physical searches pur-  
17 suant to the Foreign Intelligence Surveillance Act of  
18 1978 (50 U.S.C. 1801 et seq.) in accordance with  
19 the provisions of that Act.

20 (4) By conducting analysis, including identifica-  
21 tion and assessment, relevant to the mission of the  
22 Agency to address threats to the United States  
23 posed by foreign powers, agents of foreign powers,  
24 and such other foreign persons or entities as the  
25 President may prescribe.

1           (5) By assisting the Under Secretary for Infor-  
2           mation Analysis and Infrastructure Protection of the  
3           Department of Homeland Security in carrying out  
4           activities under section 201(d)(1) of the Department  
5           of Homeland Security Act (Public Law 107–296),  
6           relating to the identification and assessment of  
7           threats to the United States.

8           (6) By participating with the Central Intel-  
9           ligence Agency in the Terrorist Threat Integration  
10          Center.

11          (7) By ensuring the prompt and efficient dis-  
12          semination of foreign intelligence reports to appro-  
13          priate consumers in the United States Government,  
14          including reports derived from collection conducted  
15          pursuant to the Foreign Intelligence Surveillance  
16          Act of 1978 (50 U.S.C. 1801 et seq.).

17          (8) By facilitating the sharing of information  
18          between the Agency and other elements of the  
19          United States Government, State governments, and  
20          local governments.

21          (b) NATURE OF RESPONSIBILITIES.—(1) The Home-  
22          land Intelligence Agency shall have primary responsibility  
23          within the United States Government for the collection of  
24          foreign intelligence and counterintelligence inside the  
25          United States.

1       (2) The Agency shall have sole responsibility within  
2 the United States Government for the collection of foreign  
3 intelligence and counterintelligence under subsection  
4 (a)(3).

5       (c) LIMITATIONS.—Except as otherwise provided in  
6 sections 114 and 115, the Homeland Intelligence Agency  
7 shall have no police, subpoena, or law enforcement powers.

8 **SEC. 113. OFFICERS.**

9       (a) DIRECTOR.—(1) There is a Director of Homeland  
10 Intelligence, who shall be appointed by the President, by  
11 and with the advice and consent of the Senate. The Direc-  
12 tor shall be the head of the Homeland Intelligence Agency.

13       (2)(A) The Director serves for a term of two years,  
14 beginning on October 1 of odd-numbered years.

15       (B) An individual may be reappointed as Director.

16       (3) The Director shall perform such duties and exer-  
17 cise such powers relating to the mission of the Agency as  
18 the President shall prescribe.

19       (b) DEPUTY DIRECTOR.—(1) There is a Deputy Di-  
20 rector of Homeland Intelligence, who shall be appointed  
21 by the President, by and with the advice and consent of  
22 the Senate.

23       (2) The Deputy Director shall perform such duties  
24 and exercise such powers as the Director of Homeland In-  
25 telligence shall prescribe.

1           (3) The Deputy Director shall act for, and exercise  
2 the powers of, the Director when the Director is disabled  
3 or there is no Director of Homeland Intelligence.

4           (c) INSPECTOR GENERAL.—(1) There is an Inspector  
5 General of the Homeland Intelligence Agency, who shall  
6 be appointed as provided in section 114.

7           (2) The Inspector General shall perform the functions  
8 set forth in section 114.

9           (d) DIRECTOR OF OFFICE OF PRIVACY AND CIVIL  
10 LIBERTIES PROTECTION.—(1) There is a Director of the  
11 Office of Privacy and Civil Liberties Protection of the  
12 Homeland Intelligence Agency, who shall be appointed as  
13 provided in section 115.

14           (2) The Director shall be the head of the Office of  
15 Privacy and Civil Liberties Protection under section 115.

16           (3) The Director shall perform the functions set forth  
17 in section 115.

18           (e) GENERAL COUNSEL.—(1) There is a General  
19 Counsel of the Homeland Intelligence Agency, who shall  
20 be appointed by the President, by and with the advice and  
21 consent of the Senate.

22           (2) The General Counsel is the chief legal officer of  
23 the Homeland Intelligence Agency.

24           (3) The General Counsel shall perform such functions  
25 as the Director of Homeland Intelligence shall prescribe.

1           (4) Notwithstanding any provision of the Department  
2 of Homeland Security Act, the General Counsel of the  
3 Homeland Intelligence Agency shall not be subject to the  
4 direction, supervision, or control of the General Counsel  
5 of the Department of Homeland Security in performing  
6 functions under this title.

7 **SEC. 114. INSPECTOR GENERAL.**

8           (a) APPOINTMENT; REMOVAL.—(1) There is an In-  
9 spector General of the Homeland Intelligence Agency, who  
10 shall be appointed by the President, by and with the advice  
11 and consent of the Senate.

12           (2) The appointment of the Inspector General shall  
13 be made—

14                   (A) without regard to political affiliation;

15                   (B) solely on the basis of integrity, compliance  
16 with the security standards of the Homeland Intel-  
17 ligence Agency, and prior experience in the field of  
18 foreign intelligence or counterintelligence; and

19                   (C) on the basis of demonstrated ability in ac-  
20 counting, financial analysis, law, management anal-  
21 ysis, public administration, or auditing.

22           (3) The Inspector General may be removed from of-  
23 fice only by the President. The President shall imme-  
24 diately communicate in writing to the congressional intel-  
25 ligence committees the reasons for any such removal.

1 (b) SUPERVISION.—(1) The Inspector General of the  
2 Homeland Intelligence Agency shall report directly to and  
3 be under the general supervision of the Director of Home-  
4 land Intelligence.

5 (2) Notwithstanding any provision of the Department  
6 of Homeland Security Act (Public Law 107–296), the In-  
7 spector General of the Homeland Intelligence Agency shall  
8 not be subject to the direction, supervision, or control of  
9 the Inspector General of the Department of Homeland Se-  
10 curity in performing functions under this title.

11 (3) The Director may prohibit the Inspector General  
12 of the Homeland Intelligence Agency from initiating, car-  
13 rying out, or completing any audit, inspection, or inves-  
14 tigation if the Director determines that such prohibition  
15 is necessary to protect vital national security interests of  
16 the United States.

17 (4)(A) If the Director exercises any power under  
18 paragraph (3), the Director shall submit an appropriately  
19 classified statement of the reasons for the exercise of such  
20 power within seven days to the congressional intelligence  
21 committees.

22 (B) The Director shall advise the Inspector General  
23 at the time a report is submitted under subparagraph (A),  
24 and, to the extent consistent with the protection of intel-  
25 ligence sources and methods, provide the Inspector Gen-

1 eral with a copy of such report. In such cases, the Inspec-  
2 tor General may submit to the congressional intelligence  
3 committees such comments as the Inspector General con-  
4 siders appropriate.

5 (c) DUTIES AND RESPONSIBILITIES.—It shall be the  
6 duty and responsibility of the Inspector General of the  
7 Homeland Intelligence Agency—

8 (1) to provide policy direction for, and to plan,  
9 conduct, supervise, and coordinate independently, in-  
10 spections, investigations, and audits relating to the  
11 programs and operations of the Homeland Intel-  
12 ligence Agency to ensure they are conducted effi-  
13 ciently and in accordance with applicable law and  
14 regulations;

15 (2) to keep the Director of Homeland Intel-  
16 ligence fully and currently informed concerning vio-  
17 lations of law and regulations, fraud and other seri-  
18 ous problems, and abuses and deficiencies that may  
19 occur in such programs and operations, and to re-  
20 port the progress made in implementing corrective  
21 action;

22 (3) to take due regard for the protection of in-  
23 telligence sources and methods in the preparation of  
24 all reports issued by the Inspector General, and, to  
25 the extent consistent with the purpose and objective

1 of such reports, take such measures as may be ap-  
2 propriate to minimize the disclosure of intelligence  
3 sources and methods described in such reports; and

4 (4) in carrying out such responsibilities, to com-  
5 ply with generally accepted government auditing  
6 standards.

7 (d) REPORTS.—(1)(A) The Inspector General of the  
8 Homeland Intelligence Agency shall, not later than Janu-  
9 ary 31 and July 31 each year, prepare and submit to the  
10 Director of Homeland Intelligence a classified report sum-  
11 marizing the activities of the Inspector General during the  
12 six-month period ending on the preceding December 31  
13 or June 30, as the case may be.

14 (B) Not later than the dates each year provided for  
15 the transmittal of a report under subparagraph (A) in sec-  
16 tion 507 of the National Security Act of 1947 (as amend-  
17 ed by section 153 of this Act), the Director shall transmit  
18 the report to the congressional intelligence committees, to-  
19 gether with any comments the Director considers appro-  
20 priate.

21 (C) Each report under this paragraph shall, at a min-  
22 imum, include—

23 (i) a list of the title or subject of each inspec-  
24 tion, investigation, or audit conducted during the pe-  
25 riod covered by such report;

1           (ii) a description of significant problems,  
2           abuses, and deficiencies relating to the administra-  
3           tion of programs and operations of the Agency that  
4           are identified by the Inspector General during such  
5           period;

6           (iii) a description of the recommendations for  
7           corrective action made by the Inspector General dur-  
8           ing such period with respect to significant problems,  
9           abuses, or deficiencies identified in clause (ii);

10          (iv) a statement of whether corrective action  
11          has been completed on each significant recommenda-  
12          tion described in any previous report under this  
13          paragraph, and, in a case where corrective action  
14          has been completed, a description of such corrective  
15          action;

16          (v) a certification whether or not the Inspector  
17          General has had full and direct access during such  
18          period to all information relevant to the performance  
19          of the Inspector General's functions;

20          (vi) a description of the exercise of the sub-  
21          poena authority under subsection (e)(5) by the In-  
22          spector General during such period; and

23          (vii) such recommendations as the Inspector  
24          General considers appropriate regarding legislation  
25          to promote economy and efficiency in the adminis-

1       tration of programs and operations undertaken by  
2       the Agency, and to detect and eliminate fraud and  
3       abuse in such programs and operations.

4       (2)(A) The Inspector General shall report imme-  
5       diately to the Director whenever the Inspector General be-  
6       comes aware of an allegation of serious or flagrant prob-  
7       lems, abuses, or deficiencies relating to the administration  
8       of programs or operations of the Agency.

9       (B) The Director shall transmit to the congressional  
10      intelligence committees any report received under para-  
11      graph (A) within seven calendar days of receipt, together  
12      with any comments the Director considers appropriate.

13      (3) In accordance with section 535 of title 28, United  
14      States Code, the Inspector General shall report to the At-  
15      torney General any information, allegation, or complaint  
16      received by the Inspector General relating to violations of  
17      Federal criminal law that involve a program or operation  
18      of the Agency, consistent with such guidelines as may be  
19      issued by the Attorney General pursuant to subsection  
20      (b)(2) of such section. A copy of any such report shall  
21      be furnished to the Director.

22      (4) The Inspector General shall transmit to the con-  
23      gressional intelligence committees a report on such event  
24      whenever—

1 (A) the Inspector General is unable to resolve  
2 any differences with the Director affecting the exe-  
3 cution of the Inspector General's duties or respon-  
4 sibilities;

5 (B) an investigation, inspection, or audit car-  
6 ried out by the Inspector General should focus on  
7 any current or former Agency official who holds or  
8 held a position in the Agency that is subject to ap-  
9 pointment by the President, by and with the advice  
10 and consent of the Senate, including such a position  
11 held on an acting basis;

12 (C) a matter requires a report by the Inspector  
13 General to the Department of Justice on possible  
14 criminal conduct by a current or former Agency offi-  
15 cial described or referred to in subparagraph (B);

16 (D) the Inspector General receives notice from  
17 the Department of Justice declining or approving  
18 prosecution of possible criminal conduct of any of  
19 the officials described in subparagraph (B); or

20 (E) the Inspector General, after exhausting all  
21 possible alternatives, is unable to obtain significant  
22 documentary information in the course of an inves-  
23 tigation, inspection, or audit.

24 (5) In a manner consistent with the provisions of title  
25 V of the National Security Act of 1947 (50 U.S.C. 413

1 et seq.), the Director shall submit to the congressional in-  
2 telligence committees any report or findings and rec-  
3 ommendations of an inspection, investigation, or audit  
4 conducted by the Inspector General which has been re-  
5 quested by the Chairman or Ranking Minority Member  
6 of either such committee.

7       (6)(A) An employee of the Agency, or of a contractor  
8 to the Agency, who intends to report to Congress a com-  
9 plaint or information with respect to an urgent concern  
10 may report such complaint or information to the Inspector  
11 General.

12       (B) Not later than the end of the 14-calendar day  
13 period beginning on the date of receipt from an employee  
14 of a complaint or information under subparagraph (A),  
15 the Inspector General shall determine whether the com-  
16 plaint or information appears credible. Upon making such  
17 a determination, the Inspector General shall transmit to  
18 the Director notice of that determination, together with  
19 the complaint or information.

20       (C) Upon receipt of a transmittal from the Inspector  
21 General under subparagraph (B), the Director shall, with-  
22 in seven calendar days of such receipt, forward such trans-  
23 mittal to the congressional intelligence committees, to-  
24 gether with any comments the Director considers appro-  
25 priate.

1 (D)(i) If the Inspector General does not find credible  
2 under subparagraph (B) a complaint or information sub-  
3 mitted under subparagraph (A), or does not transmit the  
4 complaint or information to the Director in accurate form  
5 under subparagraph (B), the employee (subject to clause  
6 (ii)) may submit the complaint or information to Congress  
7 by contacting either or both of the congressional intel-  
8 ligence committees directly.

9 (ii) An employee may contact the congressional intel-  
10 ligence committees directly as described in clause (i) only  
11 if the employee—

12 (I) before making such a contact, furnishes to  
13 the Director, through the Inspector General, a state-  
14 ment of the employee's complaint or information and  
15 notice of the employee's intent to contact the con-  
16 gressional intelligence committees directly; and

17 (II) obtains and follows from the Director,  
18 through the Inspector General, direction on how to  
19 contact the congressional intelligence committees in  
20 accordance with appropriate security practices.

21 (iii) A member or employee of one of the congres-  
22 sional intelligence committees who receives a complaint or  
23 information under clause (i) does so in that member or  
24 employee's official capacity as a member or employee of  
25 such committee.

1 (E) The Inspector General shall notify an employee  
2 who reports a complaint or information to the Inspector  
3 General under this paragraph of each action taken under  
4 this paragraph with respect to the complaint or informa-  
5 tion. Such notice shall be provided not later than 3 days  
6 after such action is taken.

7 (F) An action taken by the Director or the Inspector  
8 General under this paragraph shall not be subject to judi-  
9 cial review.

10 (G) In this paragraph, the term “urgent concern”  
11 means any of the following:

12 (i) A serious or flagrant problem or abuse, a se-  
13 rious or flagrant violation of law or Executive order,  
14 or a serious or flagrant deficiency relating to the  
15 funding, administration, or operations of the Agency  
16 involving classified information, but does not include  
17 differences of opinions concerning public policy mat-  
18 ters.

19 (ii) A false statement to Congress, or a willful  
20 withholding from Congress, on an issue of material  
21 fact relating to the funding of, administration of, or  
22 operations conducted by the Agency.

23 (iii) An action, including a personnel action de-  
24 scribed in section 2302(a)(2)(A) of title 5, United  
25 States Code, constituting reprisal or threat of re-

1       prisal prohibited under subsection (e)(3)(B) in re-  
2       sponse to an employee’s reporting an urgent concern  
3       in accordance with this paragraph.

4       (e) AUTHORITIES.—(1) The Inspector General of the  
5       Homeland Intelligence Agency shall have direct and  
6       prompt access to the Director of Homeland Intelligence  
7       when necessary for any purpose pertaining to the perform-  
8       ance of the duties of the Inspector General.

9       (2)(A) The Inspector General shall have access to any  
10      employee or any employee of a contractor of the Agency  
11      whose testimony is needed for the performance of the In-  
12      spector General’s duties. In addition, the Inspector Gen-  
13      eral shall have direct access to all records, reports, audits,  
14      reviews, documents, papers, recommendations, or other  
15      material which relate to the programs and operations with  
16      respect to which the Inspector General has responsibilities  
17      under this section.

18      (B) Failure on the part of any employee or contractor  
19      to cooperate with the Inspector General shall be grounds  
20      for appropriate administrative actions by the Director, in-  
21      cluding loss of employment or termination of an existing  
22      contractual relationship.

23      (3)(A) The Inspector General may receive and inves-  
24      tigate complaints or information from any person con-  
25      cerning the existence of an activity constituting a violation

1 of laws, rules, or regulations, or mismanagement, gross  
2 waste of funds, abuse of authority, or a substantial and  
3 specific danger to the public health and safety.

4 (B) If such complaint or information has been re-  
5 ceived from an employee of the Agency—

6 (i) the Inspector General shall not disclose the  
7 identity of the employee without the consent of the  
8 employee unless the Inspector General determines  
9 that such disclosure is unavoidable during the course  
10 of the investigation or the disclosure is made to an  
11 official of the Department of Justice responsible for  
12 determining whether a prosecution should be under-  
13 taken; and

14 (ii) no action constituting a reprisal, or threat  
15 of reprisal, for making such complaint may be taken  
16 by any employee of the Agency in a position to take  
17 such action unless the complaint was made or the  
18 information was disclosed with the knowledge that it  
19 was false or with willful disregard for its truth or  
20 falsity.

21 (4) The Inspector General may administer to or take  
22 from any person an oath, affirmation, or affidavit when-  
23 ever necessary in the performance of the duties of the In-  
24 spector General, which oath, affirmation, or affidavit when  
25 administered or taken by or before an employee of the In-

1 spector General designated by the Inspector General shall  
2 have the same force and effect as if administered or taken  
3 by or before an officer having a seal.

4 (5)(A) Except as provided in subparagraph (B), the  
5 Inspector General may require by subpoena the production  
6 of all information, documents, reports, answers, records,  
7 accounts, papers, and other data and documentary evi-  
8 dence necessary in the performance of the duties and re-  
9 sponsibilities of the Inspector General.

10 (B) In the case of Government agencies, the Inspec-  
11 tor General shall obtain information, documents, reports,  
12 answers, records, accounts, papers, and other data and  
13 evidence for the purpose specified in subparagraph (A)  
14 using procedures other than by subpoenas.

15 (C) The Inspector General may not issue a subpoena  
16 for or on behalf of any other element or component of the  
17 Agency.

18 (D) In the case of contumacy or refusal to obey a  
19 subpoena issued under this paragraph, the subpoena shall  
20 be enforceable by order of any appropriate district court  
21 of the United States.

22 (6) The Inspector General shall be provided with ap-  
23 propriate and adequate office space at central and field  
24 office locations, together with such equipment, office sup-  
25 plies, maintenance services, and communications facilities

1 and services as may be necessary for the operation of such  
2 offices.

3       (7) Subject to applicable law and the policies of the  
4 Director, the Inspector General shall select, appoint, and  
5 employ such officers and employees as may be necessary  
6 to carry out the functions of the Inspector General. In  
7 making such selections, the Inspector General shall ensure  
8 that such officers and employees have the requisite train-  
9 ing and experience to enable the Inspector General to  
10 carry out the duties of the Inspector General. In this re-  
11 gard, the Inspector General shall establish a career cadre  
12 of sufficient size to provide appropriate continuity and ob-  
13 jectivity needed for the effective performance of the duties  
14 of the Inspector General.

15       (8) Subject to the concurrence of the Director, the  
16 Inspector General may request such information or assist-  
17 ance as may be necessary for carrying out the duties and  
18 responsibilities of the Inspector General from any Govern-  
19 ment agency. Upon request of the Inspector General for  
20 such information or assistance, the head of the agency in-  
21 volved shall, insofar as is practicable and not in contraven-  
22 tion of any existing statutory restriction or regulation of  
23 the agency involved, furnish to the Inspector General, or  
24 to an authorized designee, such information or assistance.

1 (f) SEPARATE BUDGET ACCOUNT.—For any fiscal  
2 year beginning after the date of the enactment of this Act,  
3 and in accordance with procedures to be issued by the Di-  
4 rector of Homeland Intelligence in consultation with the  
5 congressional intelligence committees, the Director shall  
6 include in the National Foreign Intelligence Program  
7 budget a separate account for the Inspector General of  
8 the Homeland Intelligence Agency.

9 **SEC. 115. OFFICE OF PRIVACY AND CIVIL LIBERTIES PRO-**  
10 **TECTION.**

11 (a) ESTABLISHMENT.—There is established in the  
12 Homeland Intelligence Agency the Office of Privacy and  
13 Civil Liberties Protection.

14 (b) DIRECTOR.—(1) There is a Director of the Office  
15 of Privacy and Civil Liberties Protection, who shall be ap-  
16 pointed by the President, by and with the advice and con-  
17 sent of the Senate. The Director shall be the head of the  
18 Office of Privacy and Civil Liberties Protection.

19 (2) The appointment of the Director shall be made—

20 (A) without regard to political affiliation;

21 (B) solely on the basis of integrity, compliance  
22 with the security standards of the Homeland Intel-  
23 ligence Agency, and prior experience in the field of  
24 foreign intelligence or counterintelligence; and

1           (C) on the basis of demonstrated knowledge  
2           and ability in the areas of privacy and civil liberties  
3           protections based on the Constitution and laws of  
4           the United States.

5           (3) The Director may be removed from office only  
6           by the President. The President shall immediately commu-  
7           nicate in writing to the appropriate committees of Con-  
8           gress the reasons for any such removal.

9           (c) MISSION.—The mission of the Office of Privacy  
10          and Civil Liberties Protection shall be as follows:

11           (1) To ensure that the Homeland Intelligence  
12          Agency operates within the Constitution and laws of  
13          the United States and any guidelines established  
14          under section 123.

15           (2) To receive and investigate complaints on  
16          matters relating to privacy and civil liberties arising  
17          in the discharge by the Agency of its mission under  
18          this title.

19           (3) To refer to the Attorney General evidence  
20          of violations of the laws of the United States re-  
21          vealed in the course of the activities of the Office.

22           (4) To notify the Director of Homeland Intel-  
23          ligence and the Inspector General of the Homeland  
24          Intelligence Agency of any findings and conclusions  
25          of the Office relating to violations of any of the Ex-

1        executive orders, rules, regulations, or directives appli-  
2        cable to the Agency, or of the guidelines established  
3        under section 123.

4            (5) To initiate and conduct investigations of  
5        complaints on matters described in paragraph (2)  
6        and on violations of the guidelines referred to in  
7        paragraph (1).

8            (6) To undertake responsibility for the privacy  
9        policy of the Agency by—

10            (A) assuring that the use of technologies  
11        by the Agency sustain, and do not erode, pri-  
12        vacy protections in the collection, use, and dis-  
13        closure of personal information;

14            (B) assuring that the handling of personal  
15        information in the system of records operated  
16        by the Agency under section 552a of title 5,  
17        United States Code (commonly referred to as  
18        the Privacy Act of 1974), complies fully with  
19        the fair information practices required by that  
20        section;

21            (C) evaluating the effect on the Agency of  
22        legislative and regulatory proposals on the col-  
23        lection, use, and disclosure of personal informa-  
24        tion by the United States Government;

1 (D) conducting an assessment of the effect  
2 of proposed rules of the Agency on the privacy  
3 of personal information, including the type of  
4 personal information to be collected, and the  
5 number of people potentially affected; and

6 (E) preparing and submitting to the ap-  
7 propriate committees of Congress on an annual  
8 basis a report on the effect on privacy and civil  
9 liberties of the activities of the Agency in ac-  
10 cordance with subsection (j)(2).

11 (7) To provide annual training to personnel of  
12 the Agency on the protection of privacy and civil lib-  
13 erties in the discharge by the Agency of its mission.

14 (8) To make public, through the media and by  
15 other appropriate means, information on—

16 (A) the mission of the Agency;

17 (B) limitations on the powers and authori-  
18 ties of the Agency; and

19 (C) the procedures for contacting the Of-  
20 fice to report complaints on matters described  
21 in paragraph (2) and on violations of the guide-  
22 lines referred to in paragraph (1).

23 (9) To perform such other functions relating to  
24 matters described in paragraphs (1) and (2) as the  
25 Director of Homeland Intelligence shall prescribe.

1 (d) ACCESS TO DIRECTOR OF HOMELAND INTEL-  
2 LIGENCE.—(1) The Director of the Office of Privacy and  
3 Civil Liberties Protection shall report directly to the Di-  
4 rector of Homeland Intelligence in the performance of the  
5 mission of the Office of Privacy and Civil Liberties Protec-  
6 tion.

7 (2) The Director of the Office of Privacy and Civil  
8 Liberties Protection shall have direct and prompt access  
9 to the Director of Homeland Intelligence for any purpose  
10 pertaining to the performance of the mission of the Office.

11 (e) POWERS.—(1) The Director of the Office of Pri-  
12 vacy and Civil Liberties Protection shall have powers and  
13 authorities necessary for the performance of the mission  
14 of the Office, including—

15 (A) the power to conduct audits and inspec-  
16 tions;

17 (B) the power, as provided in paragraph (2), to  
18 administer or take oaths, affirmations, or affidavits;  
19 and

20 (C) the power to require the production of evi-  
21 dence by subpoena, including information described  
22 in paragraph (4).

23 (2) The Director may administer to or take from any  
24 person an oath, affirmation, or affidavit whenever nec-  
25 essary in the performance of the duties of the Director,

1 which oath, affirmation, or affidavit when administered or  
2 taken by or before an employee of the Director designated  
3 by the Director shall have the same force and effect as  
4 if administered or taken by or before an officer having  
5 a seal.

6 (3) The Director of the Office of Privacy and Civil  
7 Liberties Protection shall have access to any employee, or  
8 any employee of a contractor, of the Homeland Intel-  
9 ligence Agency whose testimony is needed for the perform-  
10 ance of the mission of the Office.

11 (4) The Director shall have direct access to any  
12 records, reports, audits, reviews, documents, papers, rec-  
13 ommendations, data, or any other materials of the Agency  
14 that is needed for the performance of the mission of the  
15 Office.

16 (5) In the case of contumacy or refusal to obey a sub-  
17 poena issued under paragraph (1), the subpoena shall be  
18 enforceable by order of any appropriate district court of  
19 the United States.

20 (6) Failure on the part of any employee or contractor  
21 to cooperate with the Director of the Office of Privacy and  
22 Civil Liberties Protection shall be grounds for appropriate  
23 administrative actions by the Director of Homeland Intel-  
24 ligence, including loss of employment or termination of an  
25 existing contractual relationship.

1 (f) AUTHORITIES.—(1) The Director of the Office of  
2 Privacy and Civil Liberties Protection shall be provided  
3 with appropriate and adequate office space at central and  
4 field office locations, together with such equipment, office  
5 supplies, maintenance services, and communications facili-  
6 ties and services as may be necessary for the operation  
7 of such offices.

8 (2) Subject to applicable law and the policies of the  
9 Director of Homeland Intelligence, the Director of the Of-  
10 fice of Privacy and Civil Liberties Protection shall select,  
11 appoint, and employ such officers and employees as may  
12 be necessary to carry out the mission of the Office of Pri-  
13 vacy and Civil Liberties Protection. In making such selec-  
14 tions, the Director of the Office of Privacy and Civil Lib-  
15 erties Protection shall ensure that such officers and em-  
16 ployees have the requisite training and experience to en-  
17 able the Director of the Office of Privacy and Civil Lib-  
18 erties Protection to carry out the mission of the Office.  
19 In this regard, the Director of the Office of Privacy and  
20 Civil Liberties Protection shall establish a career cadre of  
21 sufficient size to provide appropriate continuity and objec-  
22 tivity needed for the effective performance of the mission  
23 of the Office.

24 (3) Subject to the concurrence of the Director of  
25 Homeland Intelligence, the Director of the Office of Pri-

1 vacy and Civil Liberties Protection may request such in-  
2 formation or assistance as may be necessary for carrying  
3 out the mission of the Office from any Government agen-  
4 cy. Upon request of the Director of the Office of Privacy  
5 and Civil Liberties Protection for such information or as-  
6 sistance, the head of the agency involved shall, insofar as  
7 is practicable and not in contravention of any existing  
8 statutory restriction or regulation of the agency involved,  
9 furnish to the Director of the Office of Privacy and Civil  
10 Liberties Protection, or to an authorized designee, such  
11 information or assistance.

12 (g) PROTECTION OF CIVIL LIBERTIES IN CASES IN-  
13 VOLVING CLASSIFIED INFORMATION.—(1) The Director of  
14 the Office of Privacy and Civil Liberties Protection shall  
15 establish and maintain in the Office of Privacy and Civil  
16 Liberties Protection a bureau to advocate for the civil lib-  
17 erties under the Constitution at ex parte hearings as fol-  
18 lows:

19 (A) Ex parte hearings of the Foreign Intel-  
20 ligence Surveillance Court and the Foreign Intel-  
21 ligence Surveillance Court of Review under the For-  
22 eign Intelligence Surveillance Act of 1978 (50  
23 U.S.C. 1801 et seq.).

24 (B) Ex parte hearings under the Classified In-  
25 formation Procedures Act (5 U.S.C. App.).

1           (C) Procedures conducted by the Immigration  
2           and Naturalization Service at which classified infor-  
3           mation is considered by an examiner.

4           (2) The Director shall ensure that the staff attorneys  
5           of the bureau have trial or appellate advocacy skills,  
6           whether by experience or training, adequate for the per-  
7           formance of the duties of the bureau.

8           (3)(A) The head of the bureau shall report only to  
9           the Director regarding the performance of the duties of  
10          the bureau.

11          (B) The staff of the bureau shall report only to the  
12          Director, and to the head of the bureau, regarding the  
13          performance of the duties of the bureau.

14          (C) The head of the bureau and the members of the  
15          staff of the bureau may not be supervised, evaluated for  
16          purposes of pay or advancement, or otherwise instructed  
17          regarding the duties of the bureau by any officer or em-  
18          ployee of the Department of Homeland Security or Home-  
19          land Intelligence Agency other than the Director, the head  
20          of the bureau, or other staff of the bureau.

21          (4)(A) In the case of an ex parte hearing under the  
22          Foreign Intelligence Surveillance Act of 1978, an attorney  
23          of the bureau may have access only to the materials pro-  
24          vided to the judge concerned.

1 (B) An attorney of the bureau shall not have the  
2 power to conduct any independent investigation or inquiry  
3 into matters considered by the judge or examiner con-  
4 cerned.

5 (5) The Director shall prescribe such procedures for  
6 the performance of the duties of the bureau as the Direc-  
7 tor considers appropriate. The procedures shall ensure the  
8 following:

9 (A) That no member of the bureau receives  
10 classified information in the performance of the du-  
11 ties of the bureau unless the member possesses a se-  
12 curity clearance appropriate for access to such infor-  
13 mation.

14 (B) That no member of the bureau discloses the  
15 substance of any information, whether classified or  
16 unclassified, received by such member in the per-  
17 formance of the duties of the bureau to any person  
18 other than the Director or a member of the bureau,  
19 except with the direct approval of the Director.

20 (h) ADVISORY BOARD.—(1) The Director of Home-  
21 land Intelligence shall establish an advisory board to ad-  
22 vise the Director of the Office of Privacy and Civil Lib-  
23 erties Protection in the performance of the mission of the  
24 Office of Privacy and Civil Liberties Protection.

1           (2) The advisory board shall consist of individuals  
2 from the private sector who have expertise in the Constitu-  
3 tion and law relating to privacy and civil liberties protec-  
4 tions.

5           (3) The advisory board shall provide advice and rec-  
6 ommendations to the Director of the Office of Privacy and  
7 Civil Liberties Protection on such matters relating to the  
8 mission of the Office as the Director of Homeland Intel-  
9 ligence, in consultation with the Director of the Office of  
10 Privacy and Civil Liberties Protection, considers appro-  
11 priate.

12          (4) The provisions of the Federal Advisory Com-  
13 mittee Act (5 U.S.C. App.) shall not apply to the activities  
14 of the advisory board under this subsection.

15          (i) SEPARATE BUDGET ACCOUNT.—For any fiscal  
16 year beginning after the date of the enactment of this Act,  
17 and in accordance with procedures to be issued by the Di-  
18 rector of Homeland Intelligence in consultation with the  
19 congressional intelligence committees, the Director shall  
20 include in the National Foreign Intelligence Program  
21 budget a separate account for the Office of Privacy and  
22 Civil Liberties Protection.

23          (j) ANNUAL REPORTS.—(1) Not later than February  
24 1 each year, the Director of the Office of Privacy and Civil  
25 Liberties Protection shall submit to the appropriate com-

1 mittees of Congress a report on the activities of the Office  
2 of Privacy and Civil Liberties Protection during the pre-  
3 ceding year.

4 (2) Each report under paragraph (1) shall include a  
5 description of the effect on privacy and civil liberties of  
6 the activities of the Homeland Intelligence Agency during  
7 the year covered by the report, including—

8 (A) the number and status of complaints re-  
9 ceived under subsection (c)(2);

10 (B) the actions taken by the Agency and the  
11 Office to implement section 552a of title 5, United  
12 States Code (commonly referred to as the Privacy  
13 Act of 1974);

14 (C) the actions taken by the Agency and the  
15 Office to implement, modify, or enhance the internal  
16 controls of the Agency or the Office regarding pri-  
17 vacy and civil liberties;

18 (D) the actions taken by the Agency and the  
19 Office in accordance with this Act for the protection  
20 of privacy and civil liberties, including an assessment  
21 of the effectiveness of such actions; and

22 (E) such other matters as the Director con-  
23 siders appropriate.

1       (3) Each report under paragraph (1) shall be sub-  
2 mitted in unclassified form, but may include a classified  
3 annex.

4 **SEC. 116. OFFICE OF FEDERAL, STATE, AND LOCAL LAW EN-**  
5 **FORCEMENT COORDINATION.**

6       (a) **ESTABLISHMENT.**—There is established in the  
7 Homeland Intelligence Agency the Office of Federal,  
8 State, and Local Law Enforcement Coordination.

9       (b) **RESPONSIBILITIES.**—(1) The Office of Federal,  
10 State, and Local Law Enforcement Coordination shall en-  
11 sure, in accordance with applicable statutes, regulations,  
12 and Executive orders, and consistent with the protection  
13 of intelligence sources and methods, that—

14           (A) any information that is collected or other-  
15 wise acquired by the Homeland Intelligence Agency  
16 relating to evidence of the possible violation of the  
17 laws of the United States is promptly transmitted to  
18 the Attorney General and the Office of Foreign In-  
19 telligence Coordination of the Federal Bureau of In-  
20 vestigation (as established by section 202); and

21           (B) any information that is collected by the  
22 Agency relating to the missions of State or local law  
23 enforcement, health, rescue, fire, or other first re-  
24 sponder agencies to protect the public health and

1 safety of their citizens is promptly transmitted to  
2 the appropriate recipients in such agencies.

3 (2) For purposes of paragraph (1)(B), the appro-  
4 priate recipients of classified information in a State or  
5 local agency referred to in that paragraph are the per-  
6 sonnel of such agency who are designated as appropriate  
7 recipients of such information by the Secretary of Home-  
8 land Security, but only if such personnel have received  
9 clearance from the Director of Central Intelligence for ac-  
10 cess to classified information.

11 (c) ACCESS AND HANDLING OF CLASSIFIED INFOR-  
12 MATION BY STATE AND LOCAL PERSONNEL.—(1) Not  
13 later than 180 days after the date of the enactment of  
14 this Act, the Secretary of Homeland Security and the Di-  
15 rector of Central Intelligence shall jointly ensure that suf-  
16 ficient personnel of State and local agencies designated as  
17 appropriate recipients of information under paragraph (2)  
18 of subsection (b) receive clearances under that paragraph,  
19 and training, to enable such personnel to receive and han-  
20 dle properly classified information of the United States  
21 Government.

22 (2) The Secretary shall ensure that personnel of  
23 State and local agencies designated as appropriate recipi-  
24 ents of information under paragraph (2) of subsection (b)  
25 have convenient access to secure communications and fa-

1 cilities adequate to ensure the prompt and efficient trans-  
2 mittal and receipt of classified information under para-  
3 graph (1)(B) of that subsection.

4 (d) CONSULTATION.—(1) The Director of Homeland  
5 Intelligence and the Director of the Federal Bureau of In-  
6 vestigation shall consult on a regular basis regarding the  
7 activities of the Office of Federal, State, and Local Law  
8 Enforcement Coordination of the Homeland Intelligence  
9 Agency under this section and the activities of the Office  
10 of Foreign Intelligence Coordination of the Federal Bu-  
11 reau of Investigation under section 202 in order to ensure  
12 the timely and efficient discharge of the functions of each  
13 Office.

14 (2) The Director of Homeland Intelligence shall con-  
15 sult with the chief executive officer of each State and the  
16 District of Columbia, or appropriate persons designated  
17 by such chief executive officer, to ensure that the partner-  
18 ship between the Federal Government and the States on  
19 the sharing of information functions as efficiently and ef-  
20 fectively as possible.

21 **SEC. 117. SEAL.**

22 The Homeland Intelligence Agency shall have a seal,  
23 of such design as the President shall approve, and judicial  
24 notice shall be taken thereof.

1                   **Subtitle B—Authorities**

2   **SEC. 121. PERSONNEL TRAINING.**

3           (a) TRAINING PROGRAM REQUIRED.—The Director  
4 of Homeland Intelligence shall establish and implement  
5 within the Homeland Intelligence Agency a program for  
6 purposes as follows:

7                   (1) To provide new personnel of the Agency  
8 with training as intelligence officers in order to  
9 carry out the mission of the Agency.

10                   (2) To provide law enforcement or other per-  
11 sonnel who are transferred to the Agency from other  
12 agencies of the United States Government, including  
13 the Federal Bureau of Investigation, with training  
14 as intelligence officers in order to carry out the mis-  
15 sion of the Agency.

16                   (3) To provide additional training to personnel  
17 of the Agency on at least an annual basis.

18           (b) NATURE OF TRAINING.—The training provided  
19 under this section shall—

20                   (1) be modelled on the program of training con-  
21 ducted by the Central Intelligence Agency for new  
22 intelligence officers of the Directorate of Operations  
23 of the Central Intelligence Agency; and

24                   (2) take into account the special needs associ-  
25 ated with conducting intelligence collection activities

1       inside the United States in a manner consistent with  
2       the Constitution and laws of the United States.

3   **SEC. 122. DISSEMINATION OF INFORMATION.**

4       (a) IN GENERAL.—(1) The Director of Homeland In-  
5       telligence shall provide for the prompt and efficient dis-  
6       semination to the elements and entities referred to in sub-  
7       section (d), as appropriate, of intelligence reports con-  
8       taining the foreign intelligence and counterintelligence col-  
9       lected by the Agency (including foreign intelligence and  
10      counterintelligence collected pursuant to the Foreign In-  
11      telligence Surveillance Act of 1978 (50 U.S.C. 1801 et  
12      seq.)), and analysis relating thereto conducted by the  
13      Agency, under this title.

14      (2) In disseminating foreign intelligence, counter-  
15      intelligence, and analysis relating thereto under this sub-  
16      section, the Director of Homeland Intelligence shall, in  
17      consultation with the Director of Central Intelligence, en-  
18      sure the protection from disclosure of classified informa-  
19      tion, including information relating to intelligence sources  
20      and methods.

21      (b) TECHNOLOGY INFRASTRUCTURE.—The Director  
22      of Homeland Intelligence shall establish within the Home-  
23      land Intelligence Agency a technology infrastructure suffi-  
24      cient to permit the prompt and secure electronic dissemi-  
25      nation to the elements and entities referred to in sub-

1 section (d) of intelligence reports containing foreign intel-  
2 ligence, counterintelligence, and analysis relating thereto  
3 under subsection (a).

4 (c) OFFICE OF REPORTS OFFICERS.—(1) The Direc-  
5 tor of Homeland Intelligence shall establish within the  
6 Homeland Intelligence Agency an office of reports officers  
7 who shall be responsible for the prompt and efficient dis-  
8 semination of intelligence under this section.

9 (2) The Director shall assign to the office under para-  
10 graph (1) a sufficient number of reports officers to ensure  
11 the dissemination of intelligence collected by the Agency  
12 from human sources and all other lawful collection meth-  
13 ods.

14 (3) Each reports officer assigned to the office under  
15 paragraph (1) shall receive training under section 121  
16 that is appropriate for the performance of their duties.

17 (d) ELEMENTS AND ENTITIES.—The elements and  
18 entities referred to in this subsection are as follows:

19 (1) The other elements of the intelligence com-  
20 munity.

21 (2) Such other departments and agencies of the  
22 United States Government as the President may  
23 designate for purposes of this section.

24 (3) The entities of State and local governments  
25 identified under subsection (e).

1 (e) DISSEMINATION TO STATE AND LOCAL GOVERN-  
2 MENT AGENCIES.—(1) The Secretary of Homeland Secu-  
3 rity, in consultation with the Director of Homeland Intel-  
4 ligence, shall identify the entities of State and local gov-  
5 ernments to which intelligence reports shall be dissemi-  
6 nated under this section.

7 (2) The entities of State and local governments iden-  
8 tified under paragraph (1) shall be limited to entities that  
9 perform functions with respect to health and safety, in-  
10 cluding law enforcement, health, rescue, fire, and other  
11 first responder agencies and the liaison offices of such  
12 agencies.

13 (3) In identifying entities under paragraph (1), the  
14 Secretary shall ensure each of the following:

15 (A) Adequate representation among entities  
16 identified of law enforcement, health, rescue, fire  
17 and other first responder agencies.

18 (B) Adequate representation among entities  
19 identified of entities located in the major population  
20 center or centers of each State.

21 (C) Adequate representation among entities  
22 identified of entities in each of the major geographic  
23 region of each State.

24 (4)(A) An official of an entity identified under para-  
25 graph (1) may not have access to intelligence reports dis-

1   seminated under this section unless such official possesses  
2   a security clearance appropriate for the intelligence, coun-  
3   terintelligence, or analysis in such intelligence reports.

4       (B) Each official having access to intelligence reports  
5   disseminated under this section shall receive appropriate  
6   training in the proper receipt and handling of classified  
7   information of the Federal Government.

8       (f) DEFINITION.—In this section, the term “elements  
9   of the intelligence community” means the elements of the  
10  intelligence community specified in section 3(4) of the Na-  
11  tional Security Act of 1947 (50 U.S.C. 401a(4)), as  
12  amended by this Act.

13  **SEC. 123. GUIDELINES ON COLLECTION OF FOREIGN IN-**  
14                   **TELLIGENCE AND COUNTERINTELLIGENCE**  
15                   **INSIDE THE UNITED STATES.**

16       (a) GUIDELINES REQUIRED.—The Director of Cen-  
17  tral Intelligence shall establish guidelines on the collection  
18  by the Homeland Intelligence Agency of foreign intel-  
19  ligence and counterintelligence inside the United States,  
20  including with respect to United States persons. The  
21  guidelines shall be established in accordance with this sec-  
22  tion.

23       (b) ELEMENTS.—The guidelines under subsection (a)  
24  shall—

1           (1) implement Executive Order 12333, or any  
2           successor order, regarding the conduct of foreign in-  
3           telligence and counterintelligence activities, as such  
4           Executive Order is modified in accordance with this  
5           Act;

6           (2) consolidate together, and modify in accord-  
7           ance with this Act, appropriate portions of current  
8           guidelines, directives, rules, regulations, or other in-  
9           structions on the conduct of foreign intelligence or  
10          counterintelligence collection activities inside the  
11          United States (including with respect to United  
12          States persons) that are applicable to the Federal  
13          Bureau of Investigation, the Central Intelligence  
14          Agency, the National Security Agency, and other  
15          elements of the intelligence community;

16          (3) provide appropriate protections for privacy  
17          and civil liberties, consistent with the Constitution  
18          and laws of the United States;

19          (4) ensure that information about United  
20          States persons, regardless of the means of its acqui-  
21          sition, is properly stored, accessed, disseminated,  
22          and retained;

23          (5) ensure that the accessing and dissemination  
24          of information about United States persons is sub-

1       ject to an electronic auditing process by which abuse  
2       of such information can be identified and tracked;

3           (6) ensure that the practices and procedures of  
4       the Agency to access or acquire personal identifying  
5       information through the Internet, from third party  
6       holders of such information, or otherwise, provide  
7       appropriate protections for the privacy and civil lib-  
8       erties of United States persons; and

9           (7) ensure that any information acquired  
10       though the practices and procedures referred to in  
11       paragraph (6) is retained, stored, and made avail-  
12       able to other elements of the United States Govern-  
13       ment using practices and procedures that provide  
14       appropriate protections for the privacy and civil lib-  
15       erties of United States persons.

16       (c) CONSTRUCTION WITH INAPPLICABLE PORTIONS  
17       OF CURRENT GUIDELINES.—The consolidation and modi-  
18       fication of guidelines, directives, rules, regulations, and  
19       other instructions required by subsection (b)(2) shall not  
20       be construed to alter the force and effect of the portions  
21       of such guidelines, directives, rules, regulations, or in-  
22       structions that do not relate to the matters described in  
23       that subsection.

24       (d) PREPARATION.—(1) The Director of Homeland  
25       Intelligence shall prepare the initial draft of the guidelines

1 under subsection (a) through the Director of the Office  
2 of Privacy and Civil Liberties Protection, and shall submit  
3 such draft guidelines to the Director of Central Intel-  
4 ligence.

5 (2) The Director of Homeland Intelligence shall en-  
6 sure that the advisory board established under section  
7 115(h) has an opportunity to comment on the draft guide-  
8 lines under paragraph (1) before the submittal of such  
9 draft guidelines to the Director of Central Intelligence  
10 under that paragraph.

11 (3) The Director of Central Intelligence shall submit  
12 the draft guidelines under paragraph (1) to the Attorney  
13 General for review and approval in accordance with this  
14 Act.

15 (4) Upon the completion of the review and approval  
16 of the draft guidelines under this subsection, the Director  
17 of Central Intelligence shall submit such guidelines, in-  
18 cluding any modification of such guidelines as a result of  
19 such review, to the appropriate committees of Congress.

20 (5) The guidelines shall take effect 30 days after the  
21 date of their submittal to the appropriate committees of  
22 Congress under paragraph (4).

23 (e) PUBLICATION.—The Director of Homeland Intel-  
24 ligence shall ensure, to the maximum extent practicable  
25 consistent with the protection of intelligence sources and

1 methods and the protection of the national security of the  
2 United States, that the guidelines established under this  
3 section, and any modifications thereof, are made available  
4 to the public.

5 **SEC. 124. COORDINATION WITH CENTRAL INTELLIGENCE**  
6 **AGENCY OVERSEAS.**

7 (a) **IN GENERAL.**—The Director of Homeland Intel-  
8 ligence shall, in consultation with the Director of Central  
9 Intelligence, assign personnel of the Homeland Intel-  
10 ligence Agency to operate overseas under the direct au-  
11 thority and control of the Central Intelligence Agency.

12 (b) **PURPOSE OF ASSIGNMENT.**—The primary pur-  
13 pose of the assignment of personnel of the Homeland In-  
14 telligence Agency overseas under subsection (a) shall be  
15 the prompt and efficient coordination of operations, and  
16 exchange of information, between the Homeland Intel-  
17 ligence Agency and the Central Intelligence Agency.

18 (c) **AUTHORIZATION AND LIMITATIONS BY DCI.**—  
19 The Director of Central Intelligence may authorize, and  
20 impose any limitations on, the operations overseas of per-  
21 sonnel of the Homeland Intelligence Agency under sub-  
22 section (a) that the Director considers appropriate.

23 (d) **STATUS OF PARTICIPATION.**—(1) Personnel of  
24 the Homeland Intelligence Agency operating overseas  
25 under subsection (a) may participate in such operations

1 either on detail to the Central Intelligence Agency or as  
2 liaisons to Central Intelligence Agency at the joint election  
3 of the Director of Homeland Intelligence and the Director  
4 of Central Intelligence.

5 (2) Any detail under paragraph (1) may be with or  
6 without reimbursement at the joint election of the Director  
7 of Homeland Intelligence and the Director of Central In-  
8 telligence.

9 (3) Notwithstanding any other provision of law, the  
10 detail of personnel under paragraph (2), whether on a re-  
11 imburseable or nonreimbursable basis, may be for any pe-  
12 riod of time considered appropriate by the Director of  
13 Central Intelligence.

14 **SEC. 125. TREATMENT AS ELEMENT OF INTELLIGENCE**  
15 **COMMUNITY.**

16 Section 3(4) of the National Security Act of 1947 (50  
17 U.S.C. 401a(4)) is amended—

18 (1) in subparagraph (I), by striking “and” at  
19 the end;

20 (2) by redesignating subparagraph (J) as sub-  
21 paragraph (K); and

22 (3) by inserting after subparagraph (I) the fol-  
23 lowing new subparagraph (J):

24 “(J) the Homeland Intelligence Agency;  
25 and”.

1 **SEC. 126. INCLUSION WITHIN NATIONAL FOREIGN INTEL-**  
2 **LIGENCE PROGRAM.**

3 The programs, projects, and activities of the Home-  
4 land Intelligence Agency shall be treated as programs,  
5 projects, and activities of the National Foreign Intel-  
6 ligence Program (as that term is defined in section 3(6)  
7 of the National Security Act of 1947 (50 U.S.C. 401a(6))).

8 **SEC. 127. FOREIGN INTELLIGENCE SURVEILLANCE ACTIVI-**  
9 **TIES.**

10 (a) DISCHARGE OF FBI FUNCTIONS UNDER FISA  
11 BY HIA.—(1) The Foreign Intelligence Surveillance Act  
12 of 1978 (50 U.S.C. 1801 et seq.) is amended by striking  
13 “Federal Bureau of Investigation” each place it appears  
14 in the following provisions and inserting “Homeland Intel-  
15 ligence Agency”:

16 (A) Section 104(e)(1)(A) (50 U.S.C.  
17 1804(e)(1)(A)).

18 (B) Section 303(d)(1)(A) (50 U.S.C.  
19 1823(d)(1)(A)).

20 (C) Section 501(d) (50 U.S.C. 1861(d)).

21 (2) Section 402(a)(1) of that Act (50 U.S.C.  
22 1842(a)(1)) is amended by striking “which is being con-  
23 ducted” and all that follows through “or a successor  
24 order”.

25 (3) Section 501(a)(1) of that Act (50 U.S.C.  
26 1861(a)(1)) is amended by striking “Director of the Fed-

1 eral Bureau of Investigation or a designee of the Director  
2 (whose rank shall be no lower than Assistant Special  
3 Agent in Charge)” and inserting “Director of Homeland  
4 Intelligence or a designee of the Director”.

5 (b) RESPONSIBILITY FOR DISSEMINATION OF INFOR-  
6 MATION.—Section 103(c)(6) of the National Security Act  
7 of 1947 (50 U.S.C. 403–3(c)(6)) is amended by striking  
8 “Attorney General” and inserting “Director of Homeland  
9 Intelligence”.

10 **SEC. 128. ANNUAL REPORTS.**

11 (a) REPORTS REQUIRED.—The Director of Home-  
12 land Intelligence shall submit to the appropriate commit-  
13 tees of Congress each year a report on the activities of  
14 the Agency during the preceding year.

15 (b) SUBMITTAL DATE.—(1) In the case of the con-  
16 gressional intelligence committees, the submittal date for  
17 a report under subsection (a) shall be the date provided  
18 in section 507 of the National Security Act of 1947, as  
19 added by section 811 of the Intelligence Authorization Act  
20 for Fiscal Year 2003 (Public Law 107–306) and amended  
21 by section 153 of this Act.

22 (2) In the case of the Committees on the Judiciary  
23 of the Senate and House of Representatives, the submittal  
24 date for a report under subsection (a) shall be February  
25 1.

1 (c) ELEMENTS.—Each report under subsection (a)  
2 shall include, for the year covered by such report, the fol-  
3 lowing:

4 (1) A description of the activities of the Home-  
5 land Intelligence Agency, including a separate de-  
6 scription of the activities of—

7 (A) the Inspector General of the Homeland  
8 Intelligence Agency;

9 (B) the Office of Privacy and Civil Lib-  
10 erties Protection; and

11 (C) the Office of Federal, State, and Local  
12 Law Enforcement Coordination.

13 (2) A description of the participation of the  
14 Agency in activities of the Terrorist Threat Integra-  
15 tion Center.

16 (3) A statement of the number of times that in-  
17 formation on possible violations of the law of the  
18 United States was transmitted to the Attorney Gen-  
19 eral under section 116, including, to the extent con-  
20 sistent with the protection of civil liberties and of in-  
21 telligence and law enforcement sources and methods,  
22 a description of the circumstances involved.

23 (4) A description of the personnel training pro-  
24 vided under section 121.

1           (5) A statement of the number of intelligence  
2           reports, and finished intelligence products, produced  
3           by the Agency, and of the number of such reports,  
4           and of such products, disseminated by the Agency  
5           under section 122.

6           (6) Any other information regarding the activi-  
7           ties of the Agency that the Director of Homeland  
8           Intelligence considers appropriate.

9           (d) INFORMATION ON TRANSFER OF FUNCTIONS.—

10          (1) Subject to paragraph (2), each report under subsection  
11          (a) shall also include a description of the progress made  
12          during the year covered by such report in transferring to  
13          the Homeland Intelligence Agency the functions to be  
14          transferred under subtitle C, including a description of the  
15          functions transferred during such year.

16          (2) The requirement in paragraph (1) shall cease  
17          after the date of the submittal of the report submitted  
18          in the year following the year of the completion of the  
19          transfer of functions to the Agency under subtitle C, as  
20          determined by the President.

21          (e) FORM OF REPORT.—Each report under sub-  
22          section (a) shall be submitted in unclassified form, but  
23          may include a classified annex.

## 1 **Subtitle C—Transfer of Functions**

### 2 **SEC. 141. TRANSFER OF FUNCTIONS.**

3 (a) TRANSFER.—There is hereby transferred to the  
4 Homeland Intelligence Agency the functions with respect  
5 to the mission of the Homeland Intelligence Agency of the  
6 agencies as follows:

7 (1) The Federal Bureau of Investigation.

8 (2) The Central Intelligence Agency.

9 (3) The National Security Agency.

10 (4) The Office of the National Counterintel-  
11 ligence Executive.

12 (5) Any other department or agency of the  
13 United States Government carrying out such func-  
14 tion.

15 (b) IDENTIFICATION OF FUNCTIONS TO BE TRANS-  
16 FERRED.—The President shall identify the functions of  
17 the agencies referred to in paragraphs (1) through (5) of  
18 subsection (a) that are to be transferred pursuant to that  
19 subsection.

### 20 **SEC. 142. REORGANIZATION.**

21 The Director of Homeland Intelligence may allocate  
22 or reallocate any function transferred under section 141  
23 among the officers of the Homeland Intelligence Agency,  
24 and establish, consolidate, alter, or discontinue such orga-

1 nizational entities in the Agency as may be necessary or  
2 appropriate.

3 **SEC. 143. TRANSFER AND ALLOCATION OF APPROPRIA-**  
4 **TIONS AND PERSONNEL.**

5 Except as otherwise provided in this title, the per-  
6 sonnel employed in connection with, and the assets, liabil-  
7 ities, contracts, property, records, and unexpended bal-  
8 ances of appropriations, authorizations, allocations, and  
9 other funds employed, used, held, arising from, available  
10 to, or to be made available in connection with the func-  
11 tions transferred by section 141, subject to section 1531  
12 of title 31, United States Code, shall be transferred to the  
13 Homeland Intelligence Agency.

14 **SEC. 144. INCIDENTAL TRANSFERS.**

15 The Director of the Office of Management and Budg-  
16 et may make such additional incidental dispositions of per-  
17 sonnel, assets, liabilities, grants, contracts, property,  
18 records, and unexpended balances of appropriations, au-  
19 thorizations, allocations, and other funds held, used, aris-  
20 ing from, available to, or to be made available in connec-  
21 tion with functions transferred under section 141 as may  
22 be necessary to carry out the provisions of this title.

23 **SEC. 145. EFFECT ON PERSONNEL.**

24 Except as otherwise provided by this title, the trans-  
25 fer pursuant to section 141 of full-time personnel (except

1 special Government employees) and part-time personnel  
2 holding permanent positions shall not cause any such em-  
3 ployee to be separated or reduced in grade or compensa-  
4 tion for one year after the date of transfer of such em-  
5 ployee under section 141.

6 **SEC. 146. SAVINGS PROVISIONS.**

7 (a) IN GENERAL.—All orders, determinations, rules,  
8 regulations, permits, agreements, grants, contracts, cer-  
9 tificates, licenses, registrations, privileges, and other ad-  
10 ministrative actions—

11 (1) which have been issued, made, granted, or  
12 allowed to become effective by the President, any  
13 Federal agency or official thereof, or by a court of  
14 competent jurisdiction, in the performance of func-  
15 tions which are transferred under section 141, and

16 (2) which are in effect on the date of the enact-  
17 ment of this Act, or were final before that date and  
18 are to become effective on or after that date,

19 shall continue in effect according to their terms until  
20 modified, terminated, superseded, set aside, or revoked in  
21 accordance with law by the President, the Secretary of  
22 Homeland Security, the Director of Homeland Intelligence  
23 or other authorized official, a court of competent jurisdic-  
24 tion, or by operation of law.

1 (b) PENDING PROCEEDINGS.—(1) The provisions of  
2 this section shall not affect any proceedings, including no-  
3 tices of proposed rulemaking, or any application for any  
4 license, permit, certificate, or financial assistance pending  
5 before an agency referred to in paragraph (1), (2), (3),  
6 (4), or (5) of section 141(a) on the date of the enactment  
7 of this Act, with respect to functions transferred by sec-  
8 tion 141, but such proceedings and applications shall con-  
9 tinue.

10 (2) Orders shall be issued in such proceedings, ap-  
11 peals shall be taken therefrom, and payments shall be  
12 made pursuant to such orders, as if this Act had not been  
13 enacted, and orders issued in any such proceedings shall  
14 continue in effect until modified, terminated, superseded,  
15 or revoked by the Director or other authorized official, by  
16 a court of competent jurisdiction, or by operation of law.

17 (3) Nothing in this subsection shall be deemed to pro-  
18 hibit the discontinuance or modification of any such pro-  
19 ceeding under the same terms and conditions and to the  
20 same extent that such proceeding could have been discon-  
21 tinued or modified if this Act had not been enacted.

22 (c) SUITS.—(1) The provisions of this subtitle shall  
23 not affect suits commenced before the date of the enact-  
24 ment of this Act, and in all such suits, proceedings shall  
25 be had, appeals taken, and judgments rendered in the

1 same manner and with the same effect as if this Act had  
2 not been enacted.

3 (2) No suit, action, or other proceeding commenced  
4 by or against an agency referred to in paragraph (1), (2),  
5 (3), (4), or (5) of section 141(a), or by or against any  
6 individual in the official capacity of such individual as an  
7 officer of such agency, shall abate by reason of the enact-  
8 ment of this Act.

9 (d) ADMINISTRATIVE ACTIONS.—Any administrative  
10 action relating to the preparation or promulgation of a  
11 regulation by an agency referred to in paragraph (1), (2),  
12 (3), (4), or (5) of section 141(a) relating to a function  
13 transferred under section 141 may be continued by the  
14 Homeland Intelligence Agency with the same effect as if  
15 this Act had not been enacted.

16 **SEC. 147. TRANSITION.**

17 The Director of Homeland Intelligence may utilize—

18 (1) the services of such officers, employees, and  
19 other personnel of an agency referred to in para-  
20 graph (1), (2), (3), (4), or (5) of section 141(a) with  
21 respect to functions transferred to the Homeland In-  
22 telligence Agency by section 141; and

23 (2) funds appropriated to such functions for  
24 such period of time as may reasonably be needed to  
25 facilitate the orderly implementation of this Act.

1 **SEC. 148. REFERENCES.**

2 Reference in any other Federal law, Executive order,  
3 rule, regulation, or delegation of authority, or any docu-  
4 ment of or relating to—

5 (1) the head of an agency referred to in para-  
6 graph (1), (2), (3), (4), or (5) of section 141(a) with  
7 regard to functions transferred under section 141,  
8 shall be deemed to refer to the Director of Home-  
9 land Intelligence; and

10 (2) an agency referred to in such subparagraph  
11 with regard to functions transferred under section  
12 141, shall be deemed to refer to the Homeland Intel-  
13 ligence Agency.

14 **Subtitle D—Conforming**  
15 **Amendments**

16 **SEC. 151. EXECUTIVE SCHEDULE.**

17 (a) EXECUTIVE SCHEDULE LEVEL III.—Section  
18 5314 of title 5, United States Code, is amended by adding  
19 at the end the following:

20 “Director of Homeland Intelligence.”.

21 (b) EXECUTIVE SCHEDULE LEVEL IV.—Section  
22 5315 of title 5, United States Code, is amended by adding  
23 at the end the following:

24 “Deputy Director of Homeland Intelligence.

25 “Inspector General of the Homeland Intel-  
26 ligence Agency.

1           “Director of the Office of Privacy and Civil  
2           Liberties Protection of the Homeland Intelligence  
3           Agency.”.

4           (c) EXECUTIVE SCHEDULE LEVEL V.—Section 5316  
5 of title 5, United States Code, is amended by adding at  
6 the end the following:

7           “General Counsel of the Homeland Intelligence  
8           Agency.”.

9   **SEC. 152. DEPARTMENT OF HOMELAND SECURITY ACT.**

10          Section 103 of the Department of Homeland Security  
11 Act (Public Law 107–296) is amended—

12           (1) by redesignating subsections (d) and (e) as  
13           subsections (e) and (f), respectively; and

14           (2) by inserting after subsection (c) the fol-  
15           lowing new subsection (d):

16          “(d) HOMELAND INTELLIGENCE AGENCY OFFI-  
17 CERS.—There are the following officers of the Homeland  
18 Intelligence Agency, within the Department, appointed as  
19 provided in the Homeland Intelligence Agency Act of  
20 2003:

21           “(1) A Director of Homeland Intelligence.

22           “(2) A Deputy Director of Homeland Intel-  
23           ligence.

24           “(3) An Inspector General of the Homeland In-  
25           telligence Agency.

1           “(4) A Director of the Office of Privacy and  
2           Civil Liberties Protection of the Homeland Intel-  
3           ligence Agency.

4           “(5) A General Counsel of the Homeland Intel-  
5           ligence Agency.”.

6 **SEC. 153. NATIONAL SECURITY ACT OF 1947.**

7           Section 507 of the National Security Act of 1947,  
8           as added by section 811 of the Intelligence Authorization  
9           Act for Fiscal Year 2003 (Public Law 107–306), is fur-  
10          ther amended—

11           (1) in subsection (a)(1), by adding at the end  
12          the following new subparagraph:

13           “(O) The annual report on the activities of the  
14          Homeland Intelligence Act required by section 128  
15          of the Homeland Intelligence Agency Act of 2003.”;  
16          and

17           (2) in subsection (b), by adding at the end the  
18          following new paragraph:

19           “(9) The semiannual reports on the Inspector  
20          General of the Homeland Intelligence Agency re-  
21          quired by section 114(d)(1) of the Homeland Intel-  
22          ligence Agency Act of 2003.”.

1 **TITLE II—FEDERAL BUREAU OF**  
2 **INVESTIGATION**

3 **SEC. 201. TERMINATION OF FUNCTIONS AND RESPONSIBIL-**  
4 **ITIES OF FEDERAL BUREAU OF INVESTIGA-**  
5 **TION AS ELEMENT OF THE INTELLIGENCE**  
6 **COMMUNITY.**

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

10 “INTELLIGENCE FUNCTIONS AND RESPONSIBILITIES OF  
11 FEDERAL BUREAU OF INVESTIGATION

12 “SEC. 119. (a) EXCLUSION FROM INTELLIGENCE  
13 COMMUNITY.—The Federal Bureau of Investigation shall  
14 not be an element of the intelligence community.

15 “(b) EXCLUSION FROM NATIONAL FOREIGN INTEL-  
16 LIGENCE PROGRAM.—No program, project, or activity of  
17 the Federal Bureau of Investigation may be treated as a  
18 program, project, or activity of the National Foreign Intel-  
19 ligence Program.

20 “(c) PROHIBITION ON DISCHARGE OF INTEL-  
21 LIGENCE-RELATED FUNCTIONS.—(1) Except as otherwise  
22 provided by law, the Federal Bureau of Investigation may  
23 not discharge or carry out functions as follows:

24 “(A) Functions relating to foreign intelligence.

25 “(B) Functions relating to counterintelligence.

1           “(C) Internal security functions.

2           “(2) The prohibition in paragraph (1) may not be  
3 construed—

4           “(A) to prohibit the Federal Bureau of Inves-  
5 tigation from collecting domestic intelligence in sup-  
6 port of its law enforcement mission;

7           “(B) to prohibit the Federal Bureau of Inves-  
8 tigation from conducting law enforcement investiga-  
9 tions related to any matter, including any counter-  
10 intelligence matter, that may violate the laws of the  
11 United States; or

12           “(C) to prohibit the Federal Bureau of Inves-  
13 tigation from coordinating, or working jointly, with  
14 the Homeland Intelligence Agency of the Depart-  
15 ment of Homeland Security on domestic intelligence  
16 or law enforcement matters relating to the activities  
17 of the Agency.

18           “(d) DOMESTIC INTELLIGENCE DEFINED.—In this  
19 section, the term ‘domestic intelligence’ means information  
20 relating to the capabilities, intentions, or activities of per-  
21 sons or entities inside the United States, but does not in-  
22 clude information relating to the capabilities, intentions,  
23 or activities of foreign governments or elements thereof,  
24 foreign organizations, or foreign persons, or international  
25 terrorist organizations.”.

1           (2) The table of contents for that Act is amended  
2 by adding at the end of the matter relating to title I the  
3 following new item:

“119. Intelligence functions and responsibilities of Federal Bureau of Investiga-  
tion.”.

4           (b) ABOLISHMENT OF POSITION OF ASSISTANT DI-  
5 RECTOR, NATIONAL SECURITY DIVISION, FEDERAL BU-  
6 REAU OF INVESTIGATION.—The position of Assistant Di-  
7 rector, National Security Division of the Federal Bureau  
8 of Investigation (also known as the Executive Assistant  
9 Director for Counterterrorism and Counterintelligence) is  
10 hereby abolished.

11          (c) CONSTRUCTION.—Nothing in this Act may be  
12 construed as affecting the powers or responsibilities of the  
13 Federal Bureau of Investigation regarding—

14           (1) law enforcement; or

15           (2) the collection of intelligence on internal do-  
16 mestic threats to the United States that do not re-  
17 late to foreign powers or agents of foreign powers.

18          (d) CONFORMING AMENDMENTS.—(1) Section  
19 3(4)(H) of the National Security Act of 1947 (50 U.S.C.  
20 401a(4)(H)) is amended by striking “the Federal Bureau  
21 of Investigation,”.

22          (2) Paragraph (5) of section 3 of that Act is amended  
23 to read as follows:

1           “(5) The terms ‘national intelligence’ and ‘intel-  
2           ligence related to the national security’ each refer to  
3           intelligence which pertains to the interests of more  
4           than one department or agency of the Government.”.

5           (3) Section 104(d)(2) of that Act (50 U.S.C. 403–  
6 4(d)(2)) is amended—

7           (A) in subparagraph (A)—

8                 (i) in clause (iii), by adding “and” at the  
9                 end;

10                (ii) by striking clause (iv); and

11                (iii) by redesignating clause (v) as clause  
12                (iv); and

13           (B) in subparagraph (B), by striking “subpara-  
14           graph (A)(v)” both places it appears and inserting  
15           “subparagraph (A)(iv)”.

16           (4) Section 106(b) of that Act (50 U.S.C. 403–6(b))  
17 is amended by striking paragraph (3).

18           (5) Section 606 (50 U.S.C. 426) of that Act is  
19 amended—

20           (A) in paragraph (4), by striking subparagraph

21           (B) and inserting the following new subparagraph

22           (B):

23                 “(B) a United States citizen—

1                   “(i) whose intelligence relationship to  
2                   the United States is classified information;  
3                   and

4                   “(ii) who—  
5                   “(I) resides and acts outside the  
6                   United States as an agent of, or in-  
7                   formant or source of operational as-  
8                   sistance to, an intelligence agency; or  
9                   “(II) is at the time of disclosure  
10                  acting as an agent of, or informant to,  
11                  the Homeland Intelligence Agency;  
12                  or”; and

13                  (B) in paragraph (5), by striking “Federal Bu-  
14                  reau of Investigation” and inserting “Homeland In-  
15                  telligence Agency”.

16 **SEC. 202. OFFICE OF FOREIGN INTELLIGENCE COORDINA-**  
17 **TION.**

18                  (a) **ESTABLISHMENT.**—(1) There is established in  
19 the Federal Bureau of Investigation the Office of Foreign  
20 Intelligence Coordination.

21                  (b) **RESPONSIBILITY.**—The Office of Foreign Intel-  
22 ligence Coordination shall ensure, in accordance with ap-  
23 plicable statutes, regulations, and Executive orders, that  
24 any foreign intelligence or counterintelligence that is col-  
25 lected by the Federal Bureau of Investigation in the

1 course of the performance of its law enforcement functions  
2 is promptly and efficiently transmitted to the Director of  
3 Central Intelligence, the Office of Federal, State, and  
4 Local Law Enforcement Coordination of the Homeland  
5 Intelligence Agency (established by section 116 of this  
6 Act), and any other element of the intelligence community,  
7 as required by section 105B of the National Security Act  
8 of 1947 (50 U.S.C. 403–5b).

9 (c) PERSONNEL.—The personnel of the Office of For-  
10 eign Intelligence Coordination shall consist of officers who  
11 have received training for the functions of the Office that  
12 is comparable to the training provided for reports officers  
13 of the Central Intelligence Agency by the Directorate of  
14 Operations of the Central Intelligence Agency.

15 **SEC. 203. IMPROVEMENT OF COORDINATION OF COUNTER-**  
16 **INTELLIGENCE ACTIVITIES.**

17 (a) IN GENERAL.—Subsection (c) of section 811 of  
18 the Counterintelligence and Security Enhancements Act of  
19 1994 (title VIII of Public Law 103–359; 50 U.S.C. 402a)  
20 is amended—

21 (1) in paragraph (1)(A)—

22 (A) by striking “in an unauthorized man-  
23 ner”; and

1 (B) by inserting “in a manner that may  
2 violate the laws of the United States” before  
3 the semicolon;

4 (2) in paragraph (2), by striking “espionage in-  
5 vestigations” and inserting “espionage criminal in-  
6 vestigations”;

7 (3) in paragraph (3)(A), by striking “counter-  
8 intelligence investigation” and inserting “counter-  
9 intelligence criminal investigation”; and

10 (4) in paragraph (4)(A), by striking “espionage  
11 investigation” and inserting “espionage criminal in-  
12 vestigation”.

13 (b) CONFORMING AMENDMENT.—The heading of the  
14 that subsection is amended by inserting “RELATING TO  
15 LAW ENFORCEMENT” after “COUNTERINTELLIGENCE  
16 MATTERS”.

17 **TITLE III—SURVEILLANCE**  
18 **MATTERS**

19 **Subtitle A—Foreign Intelligence**  
20 **Surveillance Reports**

21 **SEC. 301. SHORT TITLE.**

22 This subtitle may be cited as the “Foreign Intel-  
23 ligence Surveillance Public Reporting Act”.

1 **SEC. 302. ADDITIONAL MATTERS IN ANNUAL REPORTS ON**  
2 **SURVEILLANCE UNDER FOREIGN INTEL-**  
3 **LIGENCE SURVEILLANCE ACT OF 1978.**

4 (a) **RESTATEMENT OF CURRENT MATTERS WITH**  
5 **ADDITIONAL MATTERS.**—Section 107 of the Foreign In-  
6 telligence Surveillance Act of 1978 (50 U.S.C. 1807) is  
7 amended by striking paragraphs (a) and (b) and inserting  
8 the following new paragraphs:

9 “(1) in the case of electronic surveillance under  
10 this title—

11 “(A) the total number of applications made  
12 for orders and extensions of orders approving  
13 electronic surveillance, including the total num-  
14 ber of United States persons targeted; and

15 “(B) the total number of applications and  
16 extensions approved, modified, or denied, in-  
17 cluding for applications approved or modified  
18 the total number of United States persons tar-  
19 geted;

20 “(2) in the case of physical searches under title  
21 III—

22 “(A) the total number of applications made  
23 for orders approving physical searches, includ-  
24 ing the total number of United States persons  
25 targeted;

1           “(B) the total number of applications ap-  
2           proved, modified, or denied, including for orders  
3           approved or modified the total number of  
4           United States persons targeted; and

5           “(C) the total number of occasions, if any,  
6           on which the Attorney General provided notice  
7           pursuant to section 305(b);

8           “(3) in the case of the undisclosed participation  
9           of officials of the Homeland Intelligence Agency, or  
10          agents acting on behalf of the Agency, in the activi-  
11          ties of religious or political groups or organizations  
12          under title VI—

13           “(A) the total number of applications made  
14           for orders approving such participation; and

15           “(B) the total number of applications ap-  
16           proved, modified, or denied to engage in such  
17           participation; and

18           “(4) within the discretion of the Attorney Gen-  
19           eral or the Director of Homeland Intelligence and in  
20           a manner consistent with the protection of the na-  
21           tional security of the United States, significant in-  
22           terpretations of this Act which affect and inform  
23           practice under this Act, including, as appropriate,  
24           redacted portions of opinions and orders of the court  
25           under section 103.”.

1 (b) CONSTRUCTION WITH OTHER SEMIANNUAL RE-  
2 PORTS ON SURVEILLANCE AND SEARCHES.—(1) Section  
3 108 of that Act (50 U.S.C. 1808) is amended by striking  
4 subsection (b) and inserting the following new subsection  
5 (b):

6 “(b) The semiannual reports on electronic surveil-  
7 lance under the first sentence of paragraph (1) of sub-  
8 section (a) are in addition to the annual reports on phys-  
9 ical searches required under section 107(1).”.

10 (2) Section 306 of that Act (50 U.S.C. 1826) is  
11 amended—

12 (A) by inserting “(a)” before “On a semi-  
13 annual”; and

14 (B) by adding at the end the following new sub-  
15 section:

16 “(b) The semiannual reports on physical searches  
17 under paragraph (1) of the second sentence of subsection  
18 (a) are in addition to the annual reports on physical  
19 searches required under section 107(2).”.

20 (c) REQUIREMENTS FOR FIRST REPORT UNDER  
21 MODIFIED AUTHORITY.—In the first report submitted  
22 under paragraph (4) of section 107 of the Foreign Intel-  
23 ligence Surveillance Act of 1978, as added by subsection  
24 (a), after the date of the enactment of this Act, the Attor-  
25 ney General shall include the matters specified in that

1 paragraph, as so added, for all significant interpretations  
 2 of the Foreign Intelligence Act of 1978 before the date  
 3 of the enactment of this Act.

4 (d) TECHNICAL AMENDMENTS.—Section 502 of that  
 5 Act is amended by striking “section 402” each place it  
 6 appears and inserting “section 501”.

7 (e) CONFORMING AND CLERICAL AMENDMENTS.—  
 8 (1) The heading for section 107 of that Act is amended  
 9 to read as follows:

10 “ANNUAL REPORTS”.

11 (2) The table of sections for that Act is amended by  
 12 striking the item relating to section 107 and inserting the  
 13 following new item:

“Sec. 107. Annual reports.”.

14 **Subtitle B—Participation in Reli-**  
 15 **gious and Political Groups for**  
 16 **Foreign Intelligence and Inter-**  
 17 **national Terrorism Purposes**

18 **SEC. 311. PARTICIPATION IN RELIGIOUS AND POLITICAL**  
 19 **GROUPS FOR FOREIGN INTELLIGENCE AND**  
 20 **INTERNATIONAL TERRORISM PURPOSES.**

21 (a) IN GENERAL.—Title VI of the Foreign Intel-  
 22 ligence Surveillance Act of 1978 is amended to read as  
 23 follows:

1 “TITLE VI—PARTICIPATION IN RELIGIOUS AND  
2 POLITICAL GROUPS FOR FOREIGN INTEL-  
3 LIGENCE AND INTERNATIONAL TERRORISM  
4 PURPOSES

5 “DEFINITIONS

6 “SEC. 601. In this chapter:

7 “(1) The terms ‘foreign power’, ‘agent of a for-  
8 eign power’, ‘international terrorism’, ‘foreign intel-  
9 ligence information’, ‘Attorney General’, ‘United  
10 States person’, and ‘United States’ have the mean-  
11 ing given such terms in section 101.

12 “(2)(A) The term ‘undisclosed participation’,  
13 with respect to a group or organization, means join-  
14 ing or otherwise participating in the activities of the  
15 group or organization, without disclosing Federal  
16 Government affiliation to appropriate officials of the  
17 group or organization who have authority to author-  
18 ize such participation, for the purpose of acquiring  
19 foreign intelligence information about the activities  
20 of the group or organization, or a person or persons  
21 associated with the group or organization.

22 “(B) The term does not include participation in  
23 activities that are open to the public and for which  
24 participants do not disclose their affiliations.

1           “(3) The term ‘Foreign Intelligence Surveil-  
2           lance Court’ means the court established by section  
3           103(a).

4           “UNDISCLOSED PARTICIPATION IN RELIGIOUS OR POLIT-  
5           ICAL GROUPS FOR FOREIGN INTELLIGENCE AND  
6           INTERNATIONAL TERRORISM PURPOSES

7           “SEC. 602. (a) Notwithstanding any other provision  
8 of law, the Attorney General or a designated attorney for  
9 the Government may make an application for an order or  
10 an extension of an order authorizing or approving the un-  
11 disclosed participation of an official of the Homeland In-  
12 telligence Agency, or an agent acting on behalf of the  
13 Agency, acting in accordance with guidelines established  
14 pursuant to section 123 of Homeland Intelligence Agency  
15 Act of 2003, in the activities of a religious or political  
16 group or organization as part of an investigation to obtain  
17 foreign intelligence information or information concerning  
18 international terrorism.

19           “(b) Undisclosed participation in the activities of a  
20 religious or political group or organization by an official  
21 of the Federal Government, or an agent acting on behalf  
22 of the Federal Government, is prohibited except in accord-  
23 ance with this title.

24           “(c) Each application under this section shall be in  
25 writing under oath or affirmation to—

1           “(1) a judge of the Foreign Intelligence Surveil-  
2           lance Court; or

3           “(2) a United States Magistrate Judge under  
4           chapter 43 of title 28, United States Code, who is  
5           publicly designated by the Chief Justice of the  
6           United States to have the power to hear applications  
7           for and grant orders approving undisclosed partici-  
8           pation in the activities of a religious or political  
9           group or organization pursuant to subsection (a) on  
10          behalf of a judge of the Foreign Intelligence Surveil-  
11          lance Court.

12          “(d) Each application under this section shall require  
13          the approval of the Attorney General or a designated at-  
14          torney for the Government, and shall include—

15                 “(1) the identity of the Federal officer seeking  
16                 to engage in the undisclosed participation in the ac-  
17                 tivities of a religious or political group or organiza-  
18                 tion covered by the application;

19                 “(2) a certification by the applicant that the in-  
20                 formation likely to be obtained is relevant to an on-  
21                 going foreign intelligence or international terrorism  
22                 investigation being conducted by the Homeland In-  
23                 telligence Agency; and

1           “(3) specific facts creating a reasonable sus-  
2           picion that the target of the investigation to which  
3           such application relates is—

4                   “(A) an individual who is engaging or has  
5                   engaged in international terrorism or clandes-  
6                   tine intelligence activities that involve or may  
7                   involve a violation of the criminal laws of the  
8                   United States; or

9                   “(B) a foreign power or agent of a foreign  
10                   power under circumstances giving reason to be-  
11                   lieve that the activities concern international  
12                   terrorism or clandestine intelligence activities  
13                   that involve or may involve a violation of the  
14                   criminal laws of the United States.

15           “(e)(1)(A) Upon written request of the Director of  
16           Homeland Intelligence, the Secretary of Defense, the Sec-  
17           retary of State, or the Director of Central Intelligence, the  
18           Attorney General shall personally review under subsection  
19           (d) an application under that subsection for a target de-  
20           scribed in section 101(b)(2).

21           “(B) Except when disabled or otherwise unavailable  
22           to make a request referred to in subparagraph (A), an  
23           official referred to in that subparagraph may not delegate  
24           the authority to make a request referred to in that sub-  
25           paragraph.

1       “(C) Each official referred to in subparagraph (A)  
2 with authority to make a request under that subparagraph  
3 shall take appropriate actions in advance to ensure that  
4 delegation of such authority is clearly established in the  
5 event such official is disabled or otherwise unavailable to  
6 make such request.

7       “(2)(A) If as a result of a request under paragraph  
8 (1) the Attorney General determines not to approve an  
9 application under subsection (d) for purposes of making  
10 the application under this section, the Attorney General  
11 shall provide written notice of the determination to the  
12 official making the request for the review of the applica-  
13 tion under that paragraph. Except when disabled or other-  
14 wise unavailable to make a determination under the pre-  
15 ceding sentence, the Attorney General may not delegate  
16 the responsibility to make a determination under that sen-  
17 tence. The Attorney General shall take appropriate actions  
18 in advance to ensure that delegation of such responsibility  
19 is clearly established in the event the Attorney General  
20 is disabled or otherwise unavailable to make such deter-  
21 mination.

22       “(B) Notice with respect to an application under sub-  
23 paragraph (A) shall set forth the modifications, if any, of  
24 the application that are necessary in order for the Attor-  
25 ney General to approve the application under subsection

1 (d) for purposes of making the application under this sec-  
2 tion.

3 “(C) Upon review of any modifications of an applica-  
4 tion set forth under subparagraph (B), the official notified  
5 of the modifications under this paragraph shall modify the  
6 application if such official determines that such modifica-  
7 tion is warranted. Such official shall supervise the making  
8 of any modification under this subparagraph. Except when  
9 disabled or otherwise unavailable to supervise the making  
10 of any modification under the preceding sentence, such of-  
11 ficial may not delegate the responsibility to supervise the  
12 making of any modification under that preceding sentence.  
13 Each such official shall take appropriate actions in ad-  
14 vance to ensure that delegation of such responsibility is  
15 clearly established in the event such official is disabled or  
16 otherwise unavailable to supervise the making of such  
17 modification.

18 “(f)(1) Upon an application made pursuant to this  
19 section, the judge shall enter an ex parte order as re-  
20 quested, or as modified, approving the undisclosed partici-  
21 pation of an official of the Homeland Intelligence Agency,  
22 or an agent acting on behalf of the Agency, in the activi-  
23 ties of a religious or political group or organization if the  
24 judge finds that the application satisfies the requirements  
25 of this section.

1       “(2) An order issued under this section shall speci-  
2 fy—

3               “(A) the identity, if known, of the person who  
4       is the subject of the investigation to which such ap-  
5       plication relates; and

6               “(B) a description of the location of the estab-  
7       lishment within which the religious or political group  
8       or organization conducts its activities.

9       “(g)(1) An order issued under this section shall au-  
10       thorize the undisclosed participation of an official of the  
11       Homeland Intelligence Agency, or an agent acting on be-  
12       half of the Agency, in the activities of a religious or polit-  
13       ical group or organization for a period not to exceed 90  
14       days.

15       “(2) Extensions of an order issued under this section  
16       may be granted, but only upon an application for an order  
17       under this section and upon a judicial finding that the ex-  
18       tension of the order meets the requirements of this section.

19       “(3) The period of the extension of an order under  
20       this subsection shall not exceed 90 days.

21               “AUTHORIZATION DURING EMERGENCIES

22       “SEC. 603. (a) Notwithstanding any other provision  
23       of this title, when the Attorney General makes a deter-  
24       mination described in subsection (b), the Attorney General  
25       may authorize the undisclosed participation of an official  
26       of the Homeland Intelligence Agency in the activities of

1 a religious or political group or organization on an emer-  
2 gency basis to gather foreign intelligence information or  
3 information concerning international terrorism if—

4           “(1) a judge referred to in section 602(e) is in-  
5 formed by the Attorney General or the designee of  
6 the Attorney General at the time of such authoriza-  
7 tion that the decision has been made to authorize  
8 the undisclosed participation of the official in the ac-  
9 tivities of the religious or political group or organiza-  
10 tion on an emergency basis; and

11           “(2) an application in accordance with section  
12 602 is made to such judge as soon as practicable,  
13 but not more than 72 hours, after the Attorney Gen-  
14 eral authorizes the undisclosed participation of the  
15 official in the activities of the religious or political  
16 group or organization under this section.

17           “(b) A determination under this subsection is a rea-  
18 sonable determination by the Attorney General that—

19           “(1) an emergency requires the undisclosed par-  
20 ticipation of an official of the Homeland Intelligence  
21 Agency, or an agent acting on behalf of the Agency,  
22 in the activities of a religious or political group or  
23 organization to obtain foreign intelligence informa-  
24 tion or information concerning international ter-  
25 rorism before an order authorizing the undisclosed

1 participation of the official in the activities of the re-  
2 ligious or political group or organization can with  
3 due diligence be obtained under section 602; and

4 “(2) the factual basis for issuance of an order  
5 under section 602 to approve the undisclosed partici-  
6 pation of the official in the activities of the religious  
7 or political group or organization exists.

8 “(c)(1) In the absence of an order applied for under  
9 subsection (a)(2) approving the undisclosed participation  
10 of an official of the Homeland Intelligence Agency, or an  
11 agent acting on behalf of the Agency, in the activities of  
12 a religious or political group or organization under this  
13 section, the undisclosed participation of the official in the  
14 activities of the religious or political group or organization  
15 shall terminate at the earlier of—

16 “(A) when the information sought is obtained;

17 “(B) when the application for the order is de-  
18 nied under section 602; or

19 “(C) 72 hours after the time of the authoriza-  
20 tion by the Attorney General.

21 “(2) In the event that an application for an order  
22 applied for under subsection (a)(2) is denied, or in any  
23 other case where the undisclosed participation of an offi-  
24 cial of the Agency in the activities of a religious or political  
25 group or organization under this section is terminated and

1 no order under section 602 is issued approving the undis-  
2 closed participation of the official in the activities of the  
3 religious or political group or organization, no information  
4 obtained or evidence derived from the undisclosed partici-  
5 pation of the official in the activities of the religious or  
6 political group or organization shall be received in evidence  
7 or otherwise disclosed in any trial, hearing, or other pro-  
8 ceeding in or before any court, grand jury, department,  
9 office, agency, regulatory body, legislative committee, or  
10 other authority of the United States, a State, or political  
11 subdivision thereof, and no information concerning any  
12 United States person acquired from the undisclosed par-  
13 ticipation of the official in the activities of the religious  
14 or political group or organization shall subsequently be  
15 used or disclosed in any other manner by Federal officers  
16 or employees without the consent of such person, except  
17 with the approval of the Attorney General if the informa-  
18 tion indicates a threat of death or serious bodily harm to  
19 any person.

20 “AUTHORIZATION DURING TIME OF WAR

21 “SEC. 604. Notwithstanding any other provision of  
22 law, the President, through the Attorney General, may au-  
23 thorize the undisclosed participation of an official of the  
24 Homeland Intelligence Agency, or an agent acting on be-  
25 half of the Agency, in the activities of a religious or polit-  
26 ical group or organization without a court order under this

1 title to acquire foreign intelligence information for a pe-  
2 riod not to exceed 15 calendar days following a declaration  
3 of war by Congress.

4 “USE OF INFORMATION

5 “SEC. 605. (a)(1) Information acquired from the un-  
6 disclosed participation of an official of the Homeland In-  
7 telligence Agency, or an agent acting on behalf of the  
8 Agency, in the activities of a religious or political group  
9 or organization pursuant to this title concerning any  
10 United States person may be used and disclosed by Fed-  
11 eral officers and employees without the consent of the  
12 United States person only in accordance with the provi-  
13 sions of this section.

14 “(2) No information acquired from the undisclosed  
15 participation of an official of the Agency in the activities  
16 of a religious or political group or organization pursuant  
17 to this title may be used or disclosed by Federal officers  
18 or employees except for lawful purposes.

19 “(b) No information acquired pursuant to this title  
20 shall be disclosed for law enforcement purposes unless  
21 such disclosure is accompanied by a statement that such  
22 information, or any information derived therefrom, may  
23 only be used in a criminal proceeding with the advance  
24 authorization of the Attorney General.

25 “(c) Whenever the United States intends to enter into  
26 evidence or otherwise use or disclose in any trial, hearing,

1 or other proceeding in or before any court, department,  
2 officer, agency, regulatory body, or other authority of the  
3 United States against an aggrieved person any informa-  
4 tion obtained or derived from the undisclosed participation  
5 of an official of the Homeland Intelligence Agency, or an  
6 agent acting on behalf of the Agency, in the activities of  
7 a religious or political group or organization pursuant to  
8 this title, the United States shall, before the trial, hearing,  
9 or the other proceeding or at a reasonable time before an  
10 effort to so disclose or so use that information or submit  
11 it in evidence, notify the aggrieved person and the court  
12 or other authority in which the information is to be dis-  
13 closed or used that the United States intends to so disclose  
14 or so use such information.

15       “(d) Whenever any State or political subdivision  
16 thereof intends to enter into evidence or otherwise use or  
17 disclose in any trial, hearing, or other proceeding in or  
18 before any court, department, officer, agency, regulatory  
19 body, or other authority of the State or political subdivi-  
20 sion thereof against an aggrieved person any information  
21 obtained or derived from the undisclosed participation of  
22 an official of the Homeland Intelligence Agency, or an  
23 agent acting on behalf of the Agency, in the activities of  
24 a religious or political group or organization pursuant to  
25 this title, the State or political subdivision thereof shall

1 notify the aggrieved person, the court or other authority  
2 in which the information is to be disclosed or used, and  
3 the Attorney General that the State or political subdivision  
4 thereof intends to so disclose or so use such information.

5       “(e)(1) Any aggrieved person against whom evidence  
6 obtained or derived from the undisclosed participation of  
7 an official of the Homeland Intelligence Agency, or an  
8 agent acting on behalf of the Agency, in the activities of  
9 a religious or political group or organization pursuant to  
10 this title is to be, or has been, introduced or otherwise  
11 used or disclosed in any trial, hearing, or other proceeding  
12 in or before any court, department, officer, agency, regu-  
13 latory body, or other authority of the United States, or  
14 a State or political subdivision thereof, may move to sup-  
15 press the evidence obtained or derived from the undis-  
16 closed participation of the official in the activities of the  
17 religious or political group or organization on the grounds  
18 that—

19               “(A) the information was unlawfully acquired;

20       or

21               “(B) the undisclosed participation of the official  
22 in the activities of the religious or political group or  
23 organization was not carried out in conformity with  
24 an order of authorization or approval under this  
25 title.

1           “(2) A motion under paragraph (1) shall be made be-  
2 fore the trial, hearing, or other proceeding unless there  
3 was no opportunity to make such a motion or the ag-  
4 grieved person concerned was not aware of the grounds  
5 of the motion.

6           “(f)(1) Whenever a court or other authority is noti-  
7 fied pursuant to subsection (c) or (d), whenever a motion  
8 is made pursuant to subsection (e), or whenever any mo-  
9 tion or request is made by an aggrieved person pursuant  
10 to any other statute or rule of the United States or any  
11 State before any court or other authority of the United  
12 States or any State to discover or obtain applications or  
13 orders or other materials relating to the undisclosed par-  
14 ticipation of an official of the Homeland Intelligence Agen-  
15 cy, or an agent acting on behalf of the Agency, in the ac-  
16 tivities of a religious or political group or organization  
17 pursuant to this title or to discover, obtain, or suppress  
18 evidence or information obtained or derived from the un-  
19 disclosed participation of the official in the activities of  
20 the religious or political group or organization pursuant  
21 to this title, the United States district court or, where the  
22 motion is made before another authority, the United  
23 States district court in the same district as the authority  
24 shall, notwithstanding any other provision of law and if  
25 the Attorney General files an affidavit under oath that dis-

1 closure or any adversary hearing would harm the national  
2 security of the United States, review in camera and ex  
3 parte the application, order, and such other materials re-  
4 lating to the undisclosed participation of such official in  
5 the activities of such religious or political group or organi-  
6 zation as may be necessary to determine whether the un-  
7 disclosed participation of such official in the activities of  
8 such religious or political group or organization was law-  
9 fully authorized and conducted.

10       “(2) In making a determination under paragraph (1),  
11 the court may disclose to the aggrieved person, under ap-  
12 propriate security procedures and protective orders, por-  
13 tions of the application, order, or other materials relating  
14 to the undisclosed participation of an official of the Agen-  
15 cy in the activities of a religious or political group or orga-  
16 nization or may require the Attorney General to provide  
17 to the aggrieved person a summary of such materials, only  
18 where such disclosure is necessary to make an accurate  
19 determination of the legality of the undisclosed participa-  
20 tion of the official in the activities of the religious or polit-  
21 ical group or organization.

22       “(g)(1) If the United States district court determines  
23 pursuant to subsection (f) that the undisclosed participa-  
24 tion of an official of the Homeland Intelligence Agency,  
25 or an agent acting on behalf of the Agency, in the activi-

1 ties of a religious or political group or organization was  
2 not lawfully authorized or carried out, the court may, in  
3 accordance with the requirements of law, suppress the evi-  
4 dence which was unlawfully obtained or derived from the  
5 undisclosed participation of the official in the activities of  
6 the religious or political group or organization or otherwise  
7 grant the motion of the aggrieved person.

8       “(2) If the court determines that the undisclosed par-  
9 ticipation of an official of the Agency, or an agent acting  
10 on behalf of the Agency, in the activities of a religious  
11 or political group or organization was lawfully authorized  
12 or carried out, it may deny the motion of the aggrieved  
13 person except to the extent that due process requires dis-  
14 covery or disclosure.

15       “(h) Orders granting motions or requests under sub-  
16 section (g), decisions under this section that the undis-  
17 closed participation of an official of the Homeland Intel-  
18 ligence Agency, or an agent acting on behalf of the Agen-  
19 cy, in the activities of a religious or political group or orga-  
20 nization was not lawfully authorized or carried out, and  
21 orders of the United States district court requiring review  
22 or granting disclosure of applications, orders, or other ma-  
23 terials relating to the undisclosed participation of the offi-  
24 cial in the activities of the religious or political group or  
25 organization shall be final orders and binding upon all

1 courts of the United States and the several States except  
2 a United States Court of Appeals or the Supreme Court.

3 “CONGRESSIONAL OVERSIGHT

4 “SEC. 606. (a) On a semiannual basis, the Attorney  
5 General shall fully inform the Permanent Select Com-  
6 mittee on Intelligence of the House of Representatives and  
7 the Select Committee on Intelligence of the Senate con-  
8 cerning all undisclosed participations of officials of the  
9 Homeland Intelligence Agency, and agents acting on be-  
10 half of the Agency, in the activities of religious or political  
11 groups or organizations pursuant to this title.

12 “(b) On a semiannual basis, the Attorney General  
13 shall also provide to the committees referred to in sub-  
14 section (a) and to the Committees on the Judiciary of the  
15 House of Representatives and the Senate a report setting  
16 forth with respect to the preceding 6-month period—

17 “(1) the total number of applications made for  
18 orders approving the undisclosed participation of of-  
19 ficials of the Homeland Intelligence Agency, or  
20 agents acting on behalf of the Agency, in the activi-  
21 ties of religious or political groups or organizations  
22 under this title; and

23 “(2) the total number of such orders either  
24 granted, modified, or denied.

1 “(c) The semiannual reports under subsection (b) are  
 2 in addition to the annual reports required under section  
 3 107(3).”.

4 (b) CLERICAL AMENDMENT.—The table of contents  
 5 for that Act is amended by striking the items relating to  
 6 title VI and inserting the following new items:

“TITLE VI—PARTICIPATION IN RELIGIOUS AND POLITICAL  
 GROUPS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL  
 TERRORISM PURPOSES

“601. Definitions.

“602. Undisclosed participation in religious or political groups for foreign intel-  
 ligence and international terrorism purposes.

“603. Authorization during emergencies.

“604. Authorization during time of war.

“605. Use of information.

“606. Congressional oversight.”.

7 **Subtitle C—Effective Date**

8 **SEC. 321. EFFECTIVE DATE.**

9 This title, and the amendments made by this title,  
 10 shall take effect on the date of the enactment of this Act.

11 **TITLE IV—EFFECTIVE DATE**

12 **SEC. 401. EFFECTIVE DATE.**

13 (a) IN GENERAL.—Except as provided in subsection  
 14 (b) and sections 116(c) and 321, this Act, and the amend-  
 15 ments made by this Act, shall take effect 180 days after  
 16 the date of the enactment of this Act.

17 (b) TRANSITION.—The President shall ensure the  
 18 transfer to the Homeland Intelligence Agency of the func-  
 19 tions, personnel, and assets to be transferred to the Agen-

1 cy under subtitle C of title II not later than the effective  
2 date under subsection (a).

3 (c) CONTINUITY OF FUNCTIONS.—In transferring  
4 functions, personnel, and assets under subsection (b), the  
5 President shall ensure the continuity of the discharge of  
6 such functions so as to preserve the national security and  
7 law enforcement capabilities of the United States Govern-  
8 ment during such transfer.

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