Public Law 107–108
107th Congress

An Act

Dec. 28, 2001
[H.R. 2883]

To authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence Authorization Act for Fiscal Year 2002.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2002".

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Codification of the Coast Guard as an element of the intelligence community.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Sense of Congress on intelligence community contracting.
Sec. 304. Requirements for lodging allowances in intelligence community assignment program benefits.
Sec. 305. Modification of reporting requirements for significant anticipated intelligence activities and significant intelligence failures.
Sec. 306. Report on implementation of recommendations of the National Commission on Terrorism and other entities.
Sec. 307. Judicial review under Foreign Narcotics Kingpin Designation Act.
Sec. 308. Modification of positions requiring consultation with Director of Central Intelligence in appointments.
Sec. 309. Modification of authorities for protection of intelligence community employees who report urgent concerns to Congress.
Sec. 310. Review of protections against the unauthorized disclosure of classified information.
Sec. 311. One-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.
Sec. 312. Presidential approval and submission to Congress of National Counterintelligence Strategy and National Threat Identification and Prioritization Assessments.
Sec. 313. Report on alien terrorist removal proceedings.
Sec. 314. Technical amendments.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Modifications of central services program.

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INFORMATION
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Sec. 402. One-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
Sec. 403. Guidelines for recruitment of certain foreign assets.
Sec. 404. Full reimbursement for professional liability insurance of counterterrorism employees.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Authority to purchase items of nominal value for recruitment purposes.
Sec. 502. Funding for infrastructure and quality-of-life improvements at Menwith Hill and Bad Aibling stations.
Sec. 503. Modification of authorities relating to official immunity in interdiction of aircraft engaged in illicit drug trafficking.
Sec. 504. Undergraduate training program for employees of the National Imagery and Mapping Agency.
Sec. 505. Preparation and submittal of reports, reviews, studies, and plans relating to Department of Defense intelligence activities.
Sec. 506. Enhancement of security authorities of National Security Agency.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

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

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 2883 of the One Hundred Seventh Congress.

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

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002

under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

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

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of $200,276,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

28 USC 873 note.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $44,000,000 shall be available for the National Drug Intelligence Center. Within such amount,

funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

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

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

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

SEC. 105. CODIFICATION OF THE COAST GUARD AS AN ELEMENT OF THE INTELLIGENCE COMMUNITY.

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

(1) by striking "and" before "the Department of Energy"; and

(2) by inserting ", and the Coast Guard" before the semicolon.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of $212,000,000.

TITLE III—GENERAL PROVISIONS

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

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

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

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

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security

interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

SEC. 304. REQUIREMENTS FOR LODGING ALLOWANCES IN INTELLIGENCE COMMUNITY ASSIGNMENT PROGRAM BENEFITS.

Section 113(b) of the National Security Act of 1947 (50 U.S.C. 404h(b)) is amended—

(1) by inserting "(1)" before "An employee"; and

(2) by adding at the end the following new paragraph:

"(2) The head of an agency of an employee detailed under subsection (a) may pay a lodging allowance for the employee subject to the following conditions:

"(A) The allowance shall be the lesser of the cost of the lodging or a maximum amount payable for the lodging as established jointly by the Director of Central Intelligence and—

"(i) with respect to detailed employees of the Department of Defense, the Secretary of Defense; and

"(ii) with respect to detailed employees of other agencies and departments, the head of such agency or department.

"(B) The detailed employee maintains a primary residence for the employee's immediate family in the local commuting area of the parent agency duty station from which the employee regularly commuted to such duty station before the detail.

"(C) The lodging is within a reasonable proximity of the host agency duty station.

"(D) The distance between the detailed employee's parent agency duty station and the host agency duty station is greater than 20 miles.

"(E) The distance between the detailed employee's primary residence and the host agency duty station is 10 miles greater than the distance between such primary residence and the employees parent duty station.

"(F) The rate of pay applicable to the detailed employee does not exceed the rate of basic pay for grade GS–15 of the General Schedule.".

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting "(a) IN GENERAL.—" before "To the extent"; and

(2) by adding at the end the following new subsections:

"(b) FORM AND CONTENTS OF CERTAIN REPORTS.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

"(1) A concise statement of any facts pertinent to such report.

"(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

"(c) STANDARDS AND PROCEDURES FOR CERTAIN REPORTS.—The Director of Central Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).".

SEC. 306. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF THE NATIONAL COMMISSION ON TERRORISM AND OTHER ENTITIES.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report concerning whether, and to what extent, the Intelligence Community has implemented recommendations relevant to the Intelligence Community as set forth in the following: Deadline.

(1) The report prepared by the National Commission on Terrorism established by section 591 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277).

(2) The report prepared by the United States Commission on National Security for the 21st Century, Phase III, dated February 15, 2001.

(3) The second annual report of the advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction established pursuant to section 1405 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 2301 note).

(b) RECOMMENDATIONS DETERMINED NOT TO BE ADOPTED.—In a case in which the Director determines that a recommendation described in subsection (a) has not been implemented, the report under that subsection shall include a detailed explanation of the reasons for not implementing that recommendation.

SEC. 307. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106–120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

SEC. 308. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) The Director of the Office of Intelligence of the Department of Energy.

"(D) The Director of the Office of Counterintelligence of the Department of Energy.".

SEC. 309. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: "Upon making such a determination, the Inspector General shall transmit to the Director notice of that determination, together with the complaint or information."; and

(2) in subparagraph (D)(i), by striking "does not transmit," and all that follows through "subparagraph (B)," and inserting "does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),".

(b) AUTHORITIES OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: "Upon making such a determination, the Inspector General shall transmit to the head of the establishment notice of that determination, together with the complaint or information."; and

(2) in subsection (d)(1), by striking "does not transmit," and all that follows through "subsection (b)," and inserting "does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b),".

SEC. 310. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.

(a) REQUIREMENT.—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers appropriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) PARTICULAR CONSIDERATIONS.—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) REPORT.—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following: Deadline.

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 311. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE. 22 USC 7301 note.

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

SEC. 312. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Presidential Decision Directive 75, dated December 28, 2000, entitled "U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century", including any modification of that Strategy or any such Assessment, may only take effect if approved by the President. The Strategy, each Assessment, and any modification thereof, shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

SEC. 313. REPORT ON ALIEN TERRORIST REMOVAL PROCEEDINGS.

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding after subsection (k) the following new subsection:

"(l) Not later than 3 months from the date of the enactment of this subsection, the Attorney General shall submit to Congress a report concerning the effect and efficacy of alien terrorist removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past and the effect on the use of these proceedings after the enactment of the USA PATRIOT Act of 2001 (Public Law 107–56).". Deadline.

SEC. 314. TECHNICAL AMENDMENTS.

(a) FISA.—The Foreign Intelligence Surveillance Act of 1978 is amended as follows:

(1) Section 101(h)(4) (50 U.S.C. 1801(h)(4)) is amended by striking "twenty-four hours" and inserting "72 hours".

(2) Section 105 (50 U.S.C. 1805) is amended—

(A) by inserting ", if known" in subsection (c)(1)(B) before the semicolon at the end;

(B) by striking "twenty-four hours" in subsection (f) each place it appears and inserting "72 hours";

(C) by transferring the subsection (h) added by section 225 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 295) so as to appear after (rather than before) the subsection (h) redesignated by section 602(b)(2) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106–567; 114 Stat. 2851) and redesignating that subsection as so transferred as subsection (i); and

(D) in the subsection transferred and redesignated by subparagraph (C), by inserting "for electronic surveillance or physical search" before the period at the end.

(3) Section 301(4)(D) (50 U.S.C. 1821(4)(D)) is amended by striking "24 hours" and inserting "72 hours".

(4) Section 304(e) (50 U.S.C. 1824(e)) is amended by striking "24 hours" each place it appears and inserting "72 hours".

(5) Section 402 (50 U.S.C. 1842) is amended—

(A) in subsection (c), as amended by paragraphs (2) and (3) of section 214(a) of the USA PATRIOT Act (115 Stat. 286), by inserting "and" at the end of paragraph (1); and

(B) in subsection (f), by striking "of a court" and inserting "of an order issued".

(6) Subsection (a) of section 501 (50 U.S.C. 1861), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 287), is amended by inserting "to obtain foreign intelligence information not concerning a United States person or" in paragraph (1) after "an investigation".

(7) Section 502 (50 U.S.C. 1862), as inserted by section 215 of the USA PATRIOT Act (115 Stat. 288), is amended by striking "section 402" both places it appears and inserting "section 501".

(8) The table of contents in the first section is amended—

(A) by inserting "Sec." at the beginning of the items relating to sections 401, 402, 403, 404, 405, 406, and 601; and

(B) by striking the items relating to sections 501, 502, and 503 and inserting the following:

"Sec. 501. Access to certain business records for foreign intelligence and international terrorism investigations.
"Sec. 502. Congressional oversight.".

(b) TITLE 18, UNITED STATES CODE.—Paragraph (19) of section 2510 of title 18, United States Code, as added by section 203(b)(2)(C) of the USA PATRIOT Act (115 Stat. 280), is amended by inserting ", for purposes of section 2517(6) of this title," before "means".

Effective date.

(c) USA PATRIOT ACT.—Effective as of the enactment of such Act and as if included therein as originally enacted, the USA PATRIOT Act (Public Law 107–56) is amended—

(1) in section 207(b)(1) (115 Stat. 282), by striking "105(d)(2)" and "1805(d)(2)" and inserting "105(e)(2)" and "1805(e)(2)", respectively; and 50 USC 1805.

(2) in section 1003 (115 Stat. 392), by inserting "of 1978" after "Act". 50 USC 1801.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.

(a) ANNUAL AUDITS.—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking "December 31" and inserting "January 31"; and

(2) by striking "conduct" and inserting "complete".

(b) PERMANENT AUTHORITY.—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking "paragraph (3)" and inserting "paragraph (2)"; and

(4) in paragraph (2), as so redesignated, by striking "paragraph (2)" and inserting "paragraph (1)".

SEC. 402. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) in subsection (f), by striking "September 30, 2002" and inserting "September 30, 2003"; and

(2) in subsection (i), by striking "or 2002" and inserting "2002, or 2003".

SEC. 403. GUIDELINES FOR RECRUITMENT OF CERTAIN FOREIGN ASSETS.

Recognizing dissatisfaction with the provisions of the guidelines of the Central Intelligence Agency (promulgated in 1995) for handling cases involving foreign assets or sources with human rights concerns and recognizing that, although there have been recent modifications to those guidelines, they do not fully address the challenges of both existing and long-term threats to United States security, the Director of Central Intelligence shall—

(1) rescind the existing guidelines for handling such cases;

(2) issue new guidelines that more appropriately weigh and incentivize risks to ensure that qualified field intelligence officers can, and should, swiftly and directly gather intelligence from human sources in such a fashion as to ensure the ability to provide timely information that would allow for indications and warnings of plans and intentions of hostile actions or events; and

(3) ensure that such information is shared in a broad and expeditious fashion so that, to the extent possible, actions to protect American lives and interests can be taken.

SEC. 404. FULL REIMBURSEMENT FOR PROFESSIONAL LIABILITY INSURANCE OF COUNTERTERRORISM EMPLOYEES.

Section 406(a)(2) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2849; 5 U.S.C. prec. 5941 note) is amended by striking "one-half" and inserting "100 percent".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

(a) AUTHORITY.—Section 422 of title 10, United States Code, is amended by adding at the end the following:

"(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 422. Use of funds for certain incidental purposes".

(2) Such section is further amended by inserting at the beginning of the text of the section the following:

"(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—".

(3) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 21 of such title is amended to read as follows:

"422. Use of funds for certain incidental purposes.".

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

(a) AUTHORITY.—

(1) In addition to funds otherwise available for such purpose, the Secretaries of the Army, Navy, and Air Force may each transfer or reprogram such funds as are necessary—

(A) for the enhancement of the capabilities of the Menwith Hill Station and Bad Aibling Station, including improvements of facility infrastructure and quality of life programs at those installations; and

(B) at the appropriate time, for costs associated with the closure of the Bad Aibling Station.

(2) The authority provided in paragraph (1) may be exercised notwithstanding any other provision of law.

(b) SOURCE OF FUNDS.—Funds available for any of the military departments for operation and maintenance shall be available to carry out subsection (a).

(c) BUDGET REPORT.—The Secretary of each military department shall ensure—

(1) that the annual budget request of that military department reflects any funds transferred or reprogrammed under this section for the preceding fiscal year; and

(2) that a copy of the portion of the budget request showing each such transfer or reprogramming is transmitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of funds from the Department of the Army, the Department of the Navy, or the Department of the Air Force to the Menwith Hill Station at the Bad Aibling Station.

SEC. 503. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING.

(a) CERTIFICATION REQUIRED FOR IMMUNITY.—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 2291–4) is amended by striking ", before the interdiction occurs, has determined" in the matter preceding subparagraph (A) and inserting "has, during the 12-month period ending on the date of the interdiction, certified to Congress".

(b) ANNUAL REPORTS.—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ANNUAL REPORT.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

Deadline. President.

"(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

"(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

"(C) A complete description of any assistance provided under subsection (b).

"(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

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

SEC. 504. UNDERGRADUATE TRAINING PROGRAM FOR EMPLOYEES OF THE NATIONAL IMAGERY AND MAPPING AGENCY.

(a) AUTHORITY TO CARRY OUT TRAINING PROGRAM.—Subchapter III of chapter 22 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 462. Financial assistance to certain employees in acquisition of critical skills

"The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National

Imagery and Mapping Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.".

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

"462. Financial assistance to certain employees in acquisition of critical skills.".

SEC. 505. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.

(a) CONSULTATION IN PREPARATION.—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

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

SEC. 506. ENHANCEMENT OF SECURITY AUTHORITIES OF NATIONAL SECURITY AGENCY.

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended to read as follows:

"SEC. 11. (a)(1) The Director of the National Security Agency may authorize agency personnel within the United States to perform the same functions as special policemen of the General Services Administration perform under the first section of the Act entitled 'An Act to authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes' (40 U.S.C. 318) with the powers set forth in that section, except that such personnel shall perform such functions and exercise such powers—

"(A) at the National Security Agency Headquarters complex and at any facilities and protected property which are solely under the administration and control of, or are used exclusively by, the National Security Agency; and

"(B) in the streets, sidewalks, and the open areas within the zone beginning at the outside boundary of such facilities or protected property and extending outward 500 feet.

"(2) The performance of functions and exercise of powers under subparagraph (B) of paragraph (1) shall be limited to those circumstances where such personnel can identify specific and articulable facts giving such personnel reason to believe that the performance of such functions and exercise of such powers is reasonable to protect against physical damage or injury, or threats of physical damage or injury, to agency installations, property, or employees.

"(3) Nothing in this subsection shall be construed to preclude, or limit in any way, the authority of any Federal, State, or local law enforcement agency, or any other Federal police or Federal protective service.

"(4) The rules and regulations enforced by such personnel shall be the rules and regulations prescribed by the Director and shall only be applicable to the areas referred to in subparagraph (A) of paragraph (1).

"(5) Not later than July 1 each year, the Director shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report that describes in detail the exercise of the authority granted by this subsection and the underlying facts supporting the exercise of such authority, during the preceding fiscal year. The Director shall make each such report available to the Inspector General of the National Security Agency.

Deadline.
Reports.

"(b) The Director of the National Security Agency is authorized to establish penalties for violations of the rules or regulations prescribed by the Director under subsection (a). Such penalties shall not exceed those specified in the fourth section of the Act referred to in subsection (a) (40 U.S.C. 318c).

"(c) Agency personnel designated by the Director of the National Security Agency under subsection (a) shall be clearly identifiable as United States Government security personnel while engaged in the performance of the functions to which subsection (a) refers.".

Approved December 28, 2001.

LEGISLATIVE HISTORY—H.R. 2883 (S. 1428):

HOUSE REPORTS: Nos. 107–219 (Permanent Select Comm. on Intelligence) and 107–328 (Comm. of Conference).

SENATE REPORTS: Nos. 107–63 (Select Comm. on Intelligence) and 107–92 (Comm. on Armed Services), both accompanying S. 1428.

CONGRESSIONAL RECORD, Vol. 147 (2001):

Oct. 5, considered and passed House.

Nov. 8, considered and passed Senate, amended, in lieu of S. 1428.

Dec. 12, House agreed to conference report.

Dec. 13, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 37 (2001):

Dec. 28, Presidential statement.