

In the Senate of the United States,

October 2 (legislative day, September 22), 2000.

Resolved, That the bill from the House of Representatives (H.R. 4392) entitled “An Act to authorize appropriations for fiscal year 2001 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.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “In-*
3 *telligence Authorization Act for Fiscal Year 2001”.*

1 **(b) TABLE OF CONTENTS.**—*The table of contents for*
 2 *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. Community Management Account.

**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. Prohibition on unauthorized disclosure of classified information.
Sec. 304. POW/MIA analytic capability within the intelligence community.
Sec. 305. Applicability to lawful United States intelligence activities of Federal laws implementing international treaties and agreements.
Sec. 306. Limitation on handling, retention, and storage of certain classified materials by the Department of State.
Sec. 307. Clarification of standing of United States citizens to challenge certain blocking of assets.
Sec. 308. Availability of certain funds for administrative costs of Counterdrug Intelligence Executive Secretariat.
Sec. 309. Designation of Daniel Patrick Moynihan Place.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Expansion of Inspector General actions requiring a report to Congress.*
Sec. 402. Subpoena authority of the Inspector General.
Sec. 403. Improvement and extension of central services program.
Sec. 404. Details of employees to the National Reconnaissance Office.
Sec. 405. Transfers of funds to other agencies for acquisition of land.
Sec. 406. Eligibility of additional employees for reimbursement for professional liability insurance.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

- Sec. 501. Two-year extension of authority to engage in commercial activities as security for intelligence collection activities.*
Sec. 502. Role of Director of Central Intelligence in experimental personnel program for certain scientific and technical personnel.
Sec. 503. Prohibition on transfer of imagery analysts from General Defense Intelligence Program to National Imagery and Mapping Agency Program.
Sec. 504. Prohibition on transfer of collection management personnel from General Defense Intelligence Program to Community Management Account.
Sec. 505. Authorized personnel ceiling for General Defense Intelligence Program.

Sec. 506. Measurement and signature intelligence.

TITLE VI—COUNTERINTELLIGENCE MATTERS

Sec. 601. Short title.

Sec. 602. Orders for electronic surveillance under the Foreign Intelligence Surveillance Act of 1978.

Sec. 603. Orders for physical searches under the Foreign Intelligence Surveillance Act of 1978.

Sec. 604. Disclosure of information acquired under the Foreign Intelligence Surveillance Act of 1978 for law enforcement purposes.

Sec. 605. Coordination of counterintelligence with the Federal Bureau of Investigation.

Sec. 606. Enhancing protection of national security at the Department of Justice.

Sec. 607. Coordination requirements relating to the prosecution of cases involving classified information.

Sec. 608. Severability.

TITLE VII—DISCLOSURE OF INFORMATION ON JAPANESE IMPERIAL ARMY

Sec. 701. Short title.

Sec. 702. Establishment of Japanese Imperial Army Records Interagency Working Group.

Sec. 703. Requirement of disclosure of records.

Sec. 704. Expedited processing of FOIA requests for Japanese Imperial Army records.

Sec. 705. Effective date.

TITLE VIII—DECLASSIFICATION OF INFORMATION

Sec. 801. Short title.

Sec. 802. Findings.

Sec. 803. Public Interest Declassification Board.

Sec. 804. Identification, collection, and review for declassification of information of archival value or extraordinary public interest.

Sec. 805. Protection of national security information and other information.

Sec. 806. Standards and procedures.

Sec. 807. Judicial review.

Sec. 808. Funding.

Sec. 809. Definitions.

Sec. 810. Sunset.

1 **TITLE I—INTELLIGENCE**
2 **ACTIVITIES**

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) *AUTHORIZATION OF APPROPRIATIONS FOR FISCAL*

5 *YEAR 2001.—Funds are hereby authorized to be appro-*

6 *priated for fiscal year 2001 for the conduct of the intel-*

1 *ligence and intelligence-related activities of the following*
2 *elements of the United States Government:*

3 (1) *The Central Intelligence Agency.*

4 (2) *The Department of Defense.*

5 (3) *The Defense Intelligence Agency.*

6 (4) *The National Security Agency.*

7 (5) *The National Reconnaissance Office.*

8 (6) *The National Imagery and Mapping Agency.*

9 (7) *The Department of the Army, the Depart-*
10 *ment of the Navy, and the Department of the Air*
11 *Force.*

12 (8) *The Department of State.*

13 (9) *The Department of the Treasury.*

14 (10) *The Department of Energy.*

15 (11) *The Federal Bureau of Investigation.*

16 (b) *AUTHORIZATION OF APPROPRIATIONS FOR CER-*
17 *TAIN ELEMENTS FOR FISCAL YEARS 2002 THROUGH*
18 *2005.—Funds are hereby authorized to be appropriated for*
19 *each of fiscal years 2002 through 2005 for the conduct in*
20 *each such fiscal year of the intelligence and intelligence-re-*
21 *lated activities of the following elements of the United States*
22 *Government:*

23 (1) *The Central Intelligence Agency.*

24 (2) *The Defense Intelligence Agency.*

25 (3) *The National Security Agency.*

1 (4) *The National Reconnaissance Office.*

2 **SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

3 (a) *SPECIFICATIONS OF AMOUNTS AND PERSONNEL*
4 *CEILINGS.*—*The amounts authorized to be appropriated*
5 *under section 101, and the authorized personnel ceilings as*
6 *of September 30, 2001, for the conduct of the intelligence*
7 *and intelligence-related activities of the elements listed in*
8 *such section, are those specified in the classified Schedule*
9 *of Authorizations prepared to accompany the conference re-*
10 *port on the bill _____ of the One Hundred Sixth Con-*
11 *gress.*

12 (b) *AVAILABILITY OF CLASSIFIED SCHEDULE OF AU-*
13 *THORIZATIONS.*—*The Schedule of Authorizations shall be*
14 *made available to the Committees on Appropriations of the*
15 *Senate and House of Representatives and to the President.*
16 *The President shall provide for suitable distribution of the*
17 *Schedule, or of appropriate portions of the Schedule, within*
18 *the Executive Branch.*

19 **SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

20 (a) *AUTHORITY FOR ADJUSTMENTS.*—*With the ap-*
21 *proval of the Director of the Office of Management and*
22 *Budget, the Director of Central Intelligence may authorize*
23 *employment of civilian personnel in excess of the number*
24 *authorized for fiscal year 2001 under section 102 when the*
25 *Director of Central Intelligence determines that such action*

1 *is necessary to the performance of important intelligence*
2 *functions, except that the number of personnel employed in*
3 *excess of the number authorized under such section may not,*
4 *for any element of the intelligence community, exceed two*
5 *percent of the number of civilian personnel authorized*
6 *under such section for such element.*

7 **(b) NOTICE TO INTELLIGENCE COMMITTEES.**—*The Di-*
8 *rector of Central Intelligence shall promptly notify the Se-*
9 *lect Committee on Intelligence of the Senate and the Perma-*
10 *nent Select Committee on Intelligence of the House of Rep-*
11 *resentatives whenever the Director exercises the authority*
12 *granted by this section.*

13 **SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.**

14 **(a) AUTHORIZATION OF APPROPRIATIONS.**—

15 **(1) IN GENERAL.**—*There is authorized to be ap-*
16 *propriated for the Community Management Account*
17 *of the Director of Central Intelligence for fiscal year*
18 *2001 the sum of \$232,051,000.*

19 **(2) AVAILABILITY FOR ADVANCED RESEARCH**
20 **AND DEVELOPMENT COMMITTEE.**—*Within the amount*
21 *authorized to be appropriated in paragraph (1),*
22 *amounts identified in the classified Schedule of Au-*
23 *thorizations referred to in section 102(a) for the Ad-*
24 *vanced Research and Development Committee shall*
25 *remain available until September 30, 2002.*

1 **(b) AUTHORIZED PERSONNEL LEVELS.**—*The elements*
2 *within the Community Management Account of the Direc-*
3 *tor of Central Intelligence are authorized a total of 618 full-*
4 *time personnel as of September 30, 2001. Personnel serving*
5 *in such elements may be permanent employees of the Com-*
6 *munity Management Account element or personnel detailed*
7 *from other elements of the United States Government.*

8 **(c) CLASSIFIED AUTHORIZATIONS.**—

9 **(1) AUTHORIZATION OF APPROPRIATIONS.**—*In*
10 *addition to amounts authorized to be appropriated*
11 *for the Community Management Account by sub-*
12 *section (a), there is also authorized to be appropriated*
13 *for the Community Management Account for fiscal*
14 *year 2001 such additional amounts as are specified*
15 *in the classified Schedule of Authorizations referred to*
16 *in section 102(a).*

17 **(2) AUTHORIZATION OF PERSONNEL.**—*In addi-*
18 *tion to the personnel authorized by subsection (b) for*
19 *elements of the Community Management Account as*
20 *of September 30, 2001, there is hereby authorized such*
21 *additional personnel for such elements as of that date*
22 *as is specified in the classified Schedule of Authoriza-*
23 *tions.*

24 **(d) REIMBURSEMENT.**—*Except as provided in section*
25 *113 of the National Security Act of 1947 (50 U.S.C. 404h),*

1 *during fiscal year 2001, any officer or employee of the*
2 *United States or member of the Armed Forces who is de-*
3 *tailed to the staff of an element within the Community*
4 *Management Account from another element of the United*
5 *States Government shall be detailed on a reimbursable*
6 *basis, except that any such officer, employee, or member*
7 *may be detailed on a nonreimbursable basis for a period*
8 *of less than one year for the performance of temporary func-*
9 *tions as required by the Director of Central Intelligence.*

10 *(e) NATIONAL DRUG INTELLIGENCE CENTER.—*

11 *(1) IN GENERAL.—Of the amount authorized to*
12 *be appropriated in subsection (a), \$27,000,000 shall*
13 *be available for the National Drug Intelligence Cen-*
14 *ter. Within such amount, funds provided for research,*
15 *development, test, and evaluation purposes shall re-*
16 *main available until September 30, 2002, and funds*
17 *provided for procurement purposes shall remain*
18 *available until September 30, 2003.*

19 *(2) TRANSFER OF FUNDS.—The Director of Cen-*
20 *tral Intelligence shall transfer to the Attorney General*
21 *of the United States funds available for the National*
22 *Drug Intelligence Center under paragraph (1). The*
23 *Attorney General shall utilize funds so transferred for*
24 *activities of the National Drug Intelligence Center.*

1 (3) *LIMITATION.*—Amounts available for the Na-
2 tional Drug Intelligence Center may not be used in
3 contravention of the provisions of section 103(d)(1) of
4 the National Security Act of 1947 (50 U.S.C. 403-
5 3(d)(1)).

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

10 **TITLE II—CENTRAL INTEL-**
11 **LIGENCE AGENCY RETIRE-**
12 **MENT AND DISABILITY SYS-**
13 **TEM**

14 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated for the Central
16 *Intelligence Agency Retirement and Disability Fund* for fis-
17 *cal year 2001 the sum of \$216,000,000.*

18 **TITLE III—GENERAL**
19 **PROVISIONS**

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

22 Appropriations authorized by this Act for salary, pay,
23 *retirement, and other benefits for Federal employees may*
24 *be increased by such additional or supplemental amounts*

1 *as may be necessary for increases in such compensation or*
2 *benefits authorized by law.*

3 **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE**
4 **ACTIVITIES.**

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

9 **SEC. 303. PROHIBITION ON UNAUTHORIZED DISCLOSURE**
10 **OF CLASSIFIED INFORMATION.**

11 *(a) IN GENERAL.—Chapter 37 of title 18, United*
12 *States Code, is amended—*

13 *(1) by redesignating section 798A as section*
14 *798B; and*

15 *(2) by inserting after section 798 the following*
16 *new section 798A:*

17 **“§ 798A. Unauthorized disclosure of classified infor-**
18 **mation**

19 *“(a) PROHIBITION.—Whoever, being an officer or em-*
20 *ployee of the United States, a former or retired officer or*
21 *employee of the United States, any other person with au-*
22 *thorized access to classified information, or any other per-*
23 *son formerly with authorized access to classified informa-*
24 *tion, knowingly and willfully discloses, or attempts to dis-*
25 *close, any classified information acquired as a result of such*

1 *person's authorized access to classified information to a per-*
2 *son (other than an officer or employee of the United States)*
3 *who is not authorized access to such classified information,*
4 *knowing that the person is not authorized access to such*
5 *classified information, shall be fined under this title, im-*
6 *prisoned not more than 3 years, or both.*

7 “(b) *CONSTRUCTION OF PROHIBITION.—Nothing in*
8 *this section shall be construed to establish criminal liability*
9 *for disclosure of classified information in accordance with*
10 *applicable law to the following:*

11 “(1) *Any justice or judge of a court of the United*
12 *States established pursuant to article III of the Con-*
13 *stitution of the United States.*

14 “(2) *The Senate or House of Representatives, or*
15 *any committee or subcommittee thereof, or joint com-*
16 *mittee thereof, or any member of Congress.*

17 “(3) *A person or persons acting on behalf of a*
18 *foreign power (including an international organiza-*
19 *tion) if the disclosure—*

20 “(A) *is made by an officer or employee of*
21 *the United States who has been authorized to*
22 *make the disclosure; and*

23 “(B) *is within the scope of such officer's or*
24 *employee's duties.*

1 “(4) *Any other person authorized to receive the*
2 *classified information.*

3 “(c) *DEFINITIONS.—In this section:*

4 “(1) *The term ‘authorized’, in the case of access*
5 *to classified information, means having authority or*
6 *permission to have access to the classified information*
7 *pursuant to the provisions of a statute, Executive*
8 *Order, regulation, or directive of the head of any de-*
9 *partment or agency who is empowered to classify in-*
10 *formation, an order of any United States court, or a*
11 *provision of any Resolution of the Senate or Rule of*
12 *the House of Representatives which governs release of*
13 *classified information by such House of Congress.*

14 “(2) *The term ‘classified information’ means in-*
15 *formation or material properly classified and clearly*
16 *marked or represented, or that the person knows or*
17 *has reason to believe has been properly classified by*
18 *appropriate authorities, pursuant to the provisions of*
19 *a statute or Executive Order, as requiring protection*
20 *against unauthorized disclosure for reasons of na-*
21 *tional security.*

22 “(3) *The term ‘officer or employee of the United*
23 *States’ means the following:*

24 “(A) *An officer or employee (as those terms*
25 *are defined in sections 2104 and 2105 of title 5).*

1 “(B) *An officer or enlisted member of the*
 2 *Armed Forces (as those terms are defined in sec-*
 3 *tion 101(b) of title 10).”.*

4 (b) *CLERICAL AMENDMENT.—The table of sections at*
 5 *the beginning of that chapter is amended by striking the*
 6 *item relating to section 798A and inserting the following*
 7 *new items:*

 “798A. *Unauthorized disclosure of classified information.*

 “798B. *Temporary extension of section 794.”.*

8 **SEC. 304. POW/MIA ANALYTIC CAPABILITY WITHIN THE IN-**
 9 **TELLIGENCE COMMUNITY.**

10 *Title I of the National Security Act of 1947 (50 U.S.C.*
 11 *402 et seq.) is amended by adding at the end the following:*

12 “*POW/MIA ANALYTIC CAPABILITY*

13 “*SEC. 115. (a) REQUIREMENT.—(1) The Director of*
 14 *Central Intelligence shall, in consultation with the Sec-*
 15 *retary of Defense, establish and maintain in the intelligence*
 16 *community an analytic capability with responsibility for*
 17 *intelligence in support of the activities of the United States*
 18 *relating to unaccounted for United States personnel.*

19 “*(2) The analytic capability maintained under para-*
 20 *graph (1) shall be known as the ‘POW/MIA analytic capa-*
 21 *bility of the intelligence community’.*

22 “*(b) SCOPE OF RESPONSIBILITY.—The responsibilities*
 23 *of the analytic capability maintained under subsection (a)*
 24 *shall—*

1 “(1) extend to any activities of the Federal Gov-
2 ernment with respect to unaccounted for United
3 States personnel after December 31, 1999; and

4 “(2) include support for any department or
5 agency of the Federal Government engaged in such
6 activities.

7 “(c) *UNACCOUNTED FOR UNITED STATES PERSONNEL*
8 *DEFINED.*—In this section, the term ‘unaccounted for
9 United States personnel’ means the following:

10 “(1) Any missing person (as that term is defined
11 in section 1513(1) of title 10, United States Code).

12 “(2) Any United States national who was killed
13 while engaged in activities on behalf of the United
14 States Government and whose remains have not been
15 repatriated to the United States.”.

16 **SEC. 305. APPLICABILITY TO LAWFUL UNITED STATES IN-**
17 **TELLIGENCE ACTIVITIES OF FEDERAL LAWS**
18 **IMPLEMENTING INTERNATIONAL TREATIES**
19 **AND AGREEMENTS.**

20 *The National Security Act of 1947 (50 U.S.C. 401 et*
21 *seq.) is amended by adding at the end the following:*

1 “*TITLE X—MISCELLANEOUS*
2 “*APPLICABILITY TO UNITED STATES INTELLIGENCE ACTIVI-*
3 *TIES OF FEDERAL LAWS IMPLEMENTING INTER-*
4 *NATIONAL TREATIES AND AGREEMENTS*”

5 “*SEC. 1001. (a) IN GENERAL.—No Federal law en-*
6 *acted on or after the date of the enactment of the Intelligence*
7 *Authorization Act for Fiscal Year 2001 that implements a*
8 *treaty or other international agreement shall be construed*
9 *as making unlawful an otherwise lawful and authorized in-*
10 *telligence activity of the United States Government or its*
11 *employees, or any other person to the extent such other per-*
12 *son is carrying out such activity on behalf of, and at the*
13 *direction of, the United States, unless such Federal law spe-*
14 *cifically addresses such intelligence activity.*”

15 “*(b) AUTHORIZED INTELLIGENCE ACTIVITIES.—An*
16 *intelligence activity shall be treated as authorized for pur-*
17 *poses of subsection (a) if the intelligence activity is author-*
18 *ized by an appropriate official of the United States Govern-*
19 *ment, acting within the scope of the official duties of that*
20 *official and in compliance with Federal law and any appli-*
21 *cable Presidential directive.*”

1 **SEC. 306. LIMITATION ON HANDLING, RETENTION, AND**
2 **STORAGE OF CERTAIN CLASSIFIED MATE-**
3 **RIALS BY THE DEPARTMENT OF STATE.**

4 (a) *CERTIFICATION REGARDING FULL COMPLIANCE*
5 *WITH REQUIREMENTS.*—*The Director of Central Intel-*
6 *ligence shall certify to the appropriate committees of Con-*
7 *gress whether or not each covered element of the Department*
8 *of State is in full compliance with all applicable directives*
9 *of the Director of Central Intelligence relating to the han-*
10 *dling, retention, or storage of covered classified material.*

11 (b) *LIMITATION ON CERTIFICATION.*—*The Director of*
12 *Central Intelligence may not certify a covered element of*
13 *the Department of State as being in full compliance with*
14 *the directives referred to in subsection (a) if the covered ele-*
15 *ment is currently subject to a waiver of compliance with*
16 *respect to any such directive.*

17 (c) *REPORT ON NONCOMPLIANCE.*—*Whenever the Di-*
18 *rector of Central Intelligence determines that a covered ele-*
19 *ment of the Department of State is not in full compliance*
20 *with any directive referred to in subsection (a), the Director*
21 *shall promptly notify the appropriate committees of Con-*
22 *gress of such determination.*

23 (d) *EFFECTS OF CERTIFICATION OF NON-FULL COM-*
24 *PLIANCE.*—(1) *Subject to subsection (e), effective as of Jan-*
25 *uary 1, 2001, a covered element of the Department of State*
26 *may not retain or store covered classified information un-*

1 *less the Director has certified under subsection (a) as of such*
2 *date that the covered element is in full compliance with the*
3 *directives referred to in subsection (a).*

4 (2) *If the prohibition in paragraph (1) takes effect in*
5 *accordance with that paragraph, the prohibition shall re-*
6 *main in effect until the date on which the Director certifies*
7 *under subsection (a) that the covered element involved is*
8 *in full compliance with the directives referred to in that*
9 *subsection.*

10 (e) *WAIVER BY DIRECTOR OF CENTRAL INTEL-*
11 *LIGENCE.—(1) The Director of Central Intelligence may*
12 *waive the applicability of the prohibition in subsection (d)*
13 *to an element of the Department of State otherwise covered*
14 *by such prohibition if the Director determines that the*
15 *waiver is in the national security interests of the United*
16 *States.*

17 (2) *The Director shall submit to appropriate commit-*
18 *tees of Congress a report on each exercise of the waiver au-*
19 *thority in paragraph (1).*

20 (3) *Each report under paragraph (2) with respect to*
21 *the exercise of authority under paragraph (1) shall set forth*
22 *the following:*

23 (A) *The covered element of the Department of*
24 *State addressed by the waiver.*

25 (B) *The reasons for the waiver.*

1 (C) *The actions, if any, that will be taken to*
2 *bring such element into full compliance with the di-*
3 *rectives referred to in subsection (a), including a*
4 *schedule for completion of such actions.*

5 (D) *The actions taken by the Director to protect*
6 *any covered classified material to be handled, re-*
7 *tained, or stored by such element pending achieve-*
8 *ment of full compliance of such element with such di-*
9 *rectives.*

10 (f) *DEFINITIONS.—In this section:*

11 (1) *The term “appropriate committees of Con-*
12 *gress” means the following:*

13 (A) *The Select Committee on Intelligence*
14 *and the Committee on Foreign Relations of the*
15 *Senate.*

16 (B) *The Permanent Select Committee on In-*
17 *telligence and the Committee on International*
18 *Relations of the House of Representatives.*

19 (2) *The term “covered classified material” means*
20 *any material classified at the Sensitive Compart-*
21 *mented Information (SCI) level.*

22 (3) *The term “covered element of the Department*
23 *of State” means each element of the Department of*
24 *State that handles, retains, or stores covered classified*
25 *material.*

1 (4) *The term “material” means any data, re-*
2 *gardless of physical form or characteristic, including*
3 *written or printed matter, automated information*
4 *systems storage media, maps, charts, paintings, draw-*
5 *ings, films, photographs, engravings, sketches, working*
6 *notes, papers, reproductions of any such things by*
7 *any means or process, and sound, voice, magnetic, or*
8 *electronic recordings.*

9 (5) *The term “Sensitive Compartmented Infor-*
10 *mation (SCI) level”, in the case of classified material,*
11 *means a level of classification for information in such*
12 *material concerning or derived from intelligence*
13 *sources, methods, or analytical processes that requires*
14 *such information to be handled within formal access*
15 *control systems established by the Director of Central*
16 *Intelligence.*

17 **SEC. 307. CLARIFICATION OF STANDING OF UNITED STATES**

18 **CITIZENS TO CHALLENGE CERTAIN BLOCK-**

19 **ING OF ASSETS.**

20 *The Foreign Narcotics Kingpin Designation Act (title*
21 *VIII of Public Law 106–120; 113 Stat. 1626; 21 U.S.C.*
22 *1901 et seq.) is amended by adding at the end the following*
23 *new section:*

1 **“SEC. 811. STANDING OF UNITED STATES CITIZENS TO**
2 **CHALLENGE BLOCKING OF ASSETS.**

3 *“No provision of this title shall be construed to pro-*
4 *hibit a United States citizen from raising any challenge*
5 *otherwise available to the United States citizen under sub-*
6 *chapter II of chapter 5 and chapter 7 of title 5, United*
7 *States Code (commonly referred to as the Administrative*
8 *Procedure Act), or any other provision of law, with respect*
9 *to the blocking of assets by the United States under this*
10 *title.”.*

11 **SEC. 308. AVAILABILITY OF CERTAIN FUNDS FOR ADMINIS-**
12 **TRATIVE COSTS OF COUNTERDRUG INTEL-**
13 **LIGENCE EXECUTIVE SECRETARIAT.**

14 *Notwithstanding section 1346 of title 31, United States*
15 *Code, or section 610 of the Treasury and General Govern-*
16 *ment Appropriations Act, 2000 (Public Law 106–58; 113*
17 *Stat. 467), funds made available for fiscal year 2000 for*
18 *any department or agency of the Federal Government with*
19 *authority to conduct counterdrug intelligence activities, in-*
20 *cluding counterdrug law enforcement information-gathering*
21 *activities, may be available to finance an appropriate share*
22 *of the administrative costs incurred by the Department of*
23 *Justice for the Counterdrug Intelligence Executive Secre-*
24 *tariat authorized by the General Counterdrug Intelligence*
25 *Plan of February 12, 2000.*

1 **SEC. 309. DESIGNATION OF DANIEL PATRICK MOYNIHAN**

2 **PLACE.**

3 (a) *FINDINGS.*—Congress finds that—

4 (1) *during the second half of the twentieth cen-*
5 *tury, Senator Daniel Patrick Moynihan promoted the*
6 *importance of architecture and urban planning in the*
7 *Nation’s Capital, particularly with respect to the por-*
8 *tion of Pennsylvania Avenue between the White House*
9 *and the United States Capitol (referred to in this sub-*
10 *section as the “Avenue”);*

11 (2) *Senator Moynihan has stressed the unique*
12 *significance of the Avenue as conceived by Pierre*
13 *Charles L’Enfant to be the “grand axis” of the Na-*
14 *tion’s Capital as well as a symbolic representation of*
15 *the separate yet unified branches of the United States*
16 *Government;*

17 (3) *through his service to the Ad Hoc Committee*
18 *on Federal Office Space (1961–1962), as a member of*
19 *the President’s Council on Pennsylvania Avenue*
20 *(1962–1964), and as vice-chairman of the President’s*
21 *Temporary Commission on Pennsylvania Avenue*
22 *(1965–1969), and in his various capacities in the ex-*
23 *ecutive and legislative branches, Senator Moynihan*
24 *has consistently and creatively sought to fulfill Presi-*
25 *dent Kennedy’s recommendation of June 1, 1962, that*
26 *the Avenue not become a “solid phalanx of public and*

1 *private office buildings which close down completely*
2 *at night and on weekends,” but that it be “lively,*
3 *friendly, and inviting, as well as dignified and im-*
4 *pressive”;*

5 *(4)(A) Senator Moynihan helped draft a Federal*
6 *architectural policy, known as the “Guiding Prin-*
7 *ciples for Federal Architecture,” that recommends a*
8 *choice of designs that are “efficient and economical”*
9 *and that provide “visual testimony to the dignity, en-*
10 *terprise, vigor, and stability” of the United States*
11 *Government; and*

12 *(B) the Guiding Principles for Federal Architec-*
13 *ture further state that the “development of an official*
14 *style must be avoided. Design must flow from the ar-*
15 *chitectural profession to the Government, and not vice*
16 *versa.”;*

17 *(5) Senator Moynihan has encouraged—*

18 *(A) the construction of new buildings along*
19 *the Avenue, such as the Ronald Reagan Building*
20 *and International Trade Center; and*

21 *(B) the establishment of an academic insti-*
22 *tution along the Avenue, namely the Woodrow*
23 *Wilson International Center for Scholars, a liv-*
24 *ing memorial to President Wilson; and*

1 (6) as Senator Moynihan’s service in the Senate
2 concludes, it is appropriate to commemorate his leg-
3 acy of public service and his commitment to thought-
4 ful urban design in the Nation’s Capital.

5 (b) *DESIGNATION*.—The parcel of land located in the
6 northwest quadrant of Washington, District of Columbia,
7 and described in subsection (c) shall be known and des-
8 ignated as “Daniel Patrick Moynihan Place”.

9 (c) *BOUNDARIES*.—The parcel of land described in this
10 subsection is the portion of Woodrow Wilson Plaza (as des-
11 ignated by Public Law 103–284 (108 Stat. 1448)) that is
12 bounded—

13 (1) on the west by the eastern facade of the Ron-
14 ald Reagan Building and International Trade Center;

15 (2) on the east by the western facade of the Ariel
16 Rios Building;

17 (3) on the north by the southern edge of the side-
18 walk abutting Pennsylvania Avenue; and

19 (4) on the south by the line that, bisecting the
20 atrium of the Ronald Reagan Building and Inter-
21 national Trade Center, continues east to bisect the
22 western hemicycle of the Ariel Rios Building.

23 (d) *REFERENCES*.—Any reference in a law, map, regu-
24 lation, document, paper, or other record of the United
25 States to the parcel of land described in subsection (c) shall

1 *be deemed to be a reference to Daniel Patrick Moynihan*
2 *Place.*

3 **TITLE IV—CENTRAL**
4 **INTELLIGENCE AGENCY**

5 **SEC. 401. EXPANSION OF INSPECTOR GENERAL ACTIONS**
6 **REQUIRING A REPORT TO CONGRESS.**

7 *Section 17(d)(3) of the Central Intelligence Agency Act*
8 *of 1949 (50 U.S.C. 403q(d)(3)) is amended by striking all*
9 *that follows after subparagraph (A) and inserting the fol-*
10 *lowing:*

11 *“(B) an investigation, inspection, or audit car-*
12 *ried out by the Inspector General should focus on any*
13 *current or former Agency official who—*

14 *“(i) holds or held a position in the Agency*
15 *that is subject to appointment by the President,*
16 *by and with the advise and consent of the Sen-*
17 *ate, including such a position held on an acting*
18 *basis; or*

19 *“(ii) holds or held the position in the Agen-*
20 *cy, including such a position held on an acting*
21 *basis, of—*

22 *“(I) Executive Director;*

23 *“(II) Deputy Director for Operations;*

24 *“(III) Deputy Director for Intelligence;*

1 “(IV) Deputy Director for Administra-
2 tion; or

3 “(V) Deputy Director for Science and
4 Technology;

5 “(C) a matter requires a report by the Inspector
6 General to the Department of Justice on possible
7 criminal conduct by a current or former Agency offi-
8 cial described or referred to in subparagraph (B);

9 “(D) the Inspector General becomes aware of the
10 possible criminal conduct of a current or former
11 Agency official described or referred to in subpara-
12 graph (B) through a means other than an investiga-
13 tion, inspection, or audit and such conduct is not re-
14 ferred to the Department of Justice; or

15 “(E) the Inspector General, after exhausting all
16 possible alternatives, is unable to obtain significant
17 documentary information in the course of an inves-
18 tigation, inspection, or audit,

19 the Inspector General shall immediately submit a report on
20 such matter to the intelligence committees.”.

21 **SEC. 402. SUBPOENA AUTHORITY OF THE INSPECTOR GEN-**
22 **ERAL.**

23 (a) **CLARIFICATION REGARDING REPORTS ON EXER-**
24 **CISE OF AUTHORITY.**—Section 17 of the Central Intel-
25 **ligence Agency Act of 1949 (50 U.S.C. 403q) is amended—**

1 (1) *in subsection (d)(1), by striking subpara-*
2 *graph (E) and inserting the following new subpara-*
3 *graph (E):*

4 “(E) *a description of the exercise of the subpoena*
5 *authority under subsection (e)(5) by the Inspector*
6 *General during the reporting period; and*”; and

7 (2) *in subsection (e)(5), by striking subpara-*
8 *graph (E).*

9 (b) *SCOPE OF AUTHORITY.—Subsection (e)(5)(B) of*
10 *that section is amended by striking “Government” and in-*
11 *serting “Federal”.*

12 **SEC. 403. IMPROVEMENT AND EXTENSION OF CENTRAL**
13 **SERVICES PROGRAM.**

14 (a) *DEPOSITS IN CENTRAL SERVICES WORKING CAP-*
15 *ITAL FUND.—Subsection (c)(2) of section 21 of the Central*
16 *Intelligence Agency Act of 1949 (50 U.S.C. 403u) is*
17 *amended—*

18 (1) *by redesignating subparagraph (F) as sub-*
19 *paragraph (H); and*

20 (2) *by inserting after subparagraph (E) the fol-*
21 *lowing new subparagraphs:*

22 “(F) *Receipts from individuals in reimbursement*
23 *for utility services and meals provided under the pro-*
24 *gram.*

1 *naissance Office without regard to any limitation*
2 *under law on the duration of details of Federal gov-*
3 *ernment personnel; and*

4 “(2) hire personnel for the purpose of details
5 *under paragraph (1).”.*

6 **SEC. 405. TRANSFERS OF FUNDS TO OTHER AGENCIES FOR**
7 **ACQUISITION OF LAND.**

8 *(a) IN GENERAL.—Section 8 of the Central Intelligence*
9 *Agency Act of 1949 (50 U.S.C. 403j) is amended by adding*
10 *at the end the following new subsection:*

11 “(c) *TRANSFERS FOR ACQUISITION OF LAND.—(1)*
12 *Sums appropriated or otherwise made available to the*
13 *Agency for the acquisition of land that are transferred to*
14 *another department or agency for that purpose shall remain*
15 *available for 3 years.*

16 “(2) *The Director shall submit to the Select Committee*
17 *on Intelligence of the Senate and the Permanent Select*
18 *Committee on Intelligence of the House of Representatives*
19 *an annual report on the transfers of sums described in*
20 *paragraph (1).”.*

21 *(b) CONFORMING STYLISTIC AMENDMENTS.—That sec-*
22 *tion is further amended—*

23 *(1) in subsection (a), by inserting “IN GEN-*
24 *ERAL.—” after “(a)”;* and

1 (2) *in subsection (b), by inserting “SCOPE OF*
2 *AUTHORITY FOR EXPENDITURE.—” after “(b)”.*

3 (c) *APPLICABILITY.—Subsection (c) of section 8 of the*
4 *Central Intelligence Agency Act of 1949, as added by sub-*
5 *section (a) of this section, shall apply with respect to*
6 *amounts appropriated or otherwise made available for the*
7 *Central Intelligence Agency for fiscal years after fiscal year*
8 *2000.*

9 **SEC. 406. ELIGIBILITY OF ADDITIONAL EMPLOYEES FOR RE-**
10 **IMBURSEMENT FOR PROFESSIONAL LIABIL-**
11 **ITY INSURANCE.**

12 (a) *IN GENERAL.—Notwithstanding any provision of*
13 *section 363 of the Treasury, Postal Service, and General*
14 *Government Appropriations Act, 1997 (5 U.S.C. prec. 5941*
15 *note), the Director of Central Intelligence may—*

16 (1) *designate as qualified employees within the*
17 *meaning of subsection (b) of that section appropriate*
18 *categories of employees not otherwise covered by that*
19 *subsection; and*

20 (2) *use appropriated funds available to the Di-*
21 *rector to reimburse employees within categories so*
22 *designated for one-half of the costs incurred by such*
23 *employees for professional liability insurance in ac-*
24 *cordance with subsection (a) of that section.*

1 (b) *REPORTS.*—*The Director of Central Intelligence*
2 *shall submit to the Select Committee on Intelligence of the*
3 *Senate and the Permanent Select Committee of Intelligence*
4 *of the House of Representatives a report on each designation*
5 *of a category of employees under paragraph (1) of sub-*
6 *section (a), including the approximate number of employees*
7 *covered by such designation and an estimate of the amount*
8 *to be expended on reimbursement of such employees under*
9 *paragraph (2) of that subsection.*

10 **TITLE V—DEPARTMENT OF DE-**
11 **FENSE INTELLIGENCE ACTIVI-**
12 **TIES**

13 **SEC. 501. TWO-YEAR EXTENSION OF AUTHORITY TO EN-**
14 **GAGE IN COMMERCIAL ACTIVITIES AS SECU-**
15 **RITY FOR INTELLIGENCE COLLECTION AC-**
16 **TIVITIES.**

17 *Section 431(a) of title 10, United States Code, is*
18 *amended in the second sentence by striking “December 31,*
19 *2000” and inserting “December 31, 2002”.*

20 **SEC. 502. ROLE OF DIRECTOR OF CENTRAL INTELLIGENCE**
21 **IN EXPERIMENTAL PERSONNEL PROGRAM**
22 **FOR CERTAIN SCIENTIFIC AND TECHNICAL**
23 **PERSONNEL.**

24 *If the Director of Central Intelligence requests that the*
25 *Secretary of Defense exercise any authority available to the*

1 *Secretary under section 1101(b) of the Strom Thurmond*
2 *National Defense Authorization Act for Fiscal Year 1999*
3 *(Public Law 105–261; 5 U.S.C. 3104 note) to carry out a*
4 *program of special personnel management authority at the*
5 *National Imagery and Mapping Agency and the National*
6 *Security Agency in order to facilitate recruitment of emi-*
7 *nent experts in science and engineering at such agencies,*
8 *the Secretary shall respond to such request not later than*
9 *30 days after the date of such request.*

10 **SEC. 503. PROHIBITION ON TRANSFER OF IMAGERY ANA-**
11 **LYSTS FROM GENERAL DEFENSE INTEL-**
12 **LIGENCE PROGRAM TO NATIONAL IMAGERY**
13 **AND MAPPING AGENCY PROGRAM.**

14 (a) *PROHIBITION ON USE OF FUNDS FOR TRANS-*
15 *FER.—No funds authorized to be appropriated by this Act*
16 *may be transferred from the General Defense Intelligence*
17 *Program to the National Imagery and Mapping Agency*
18 *Program for purposes of transferring imagery analysis per-*
19 *sonnel from the General Defense Intelligence Program to the*
20 *National Imagery and Mapping Agency Program.*

21 (b) *ROLE OF DIRECTOR OF NIMA AS FUNCTIONAL*
22 *MANAGER FOR IMAGERY AND GEOSPACIAL PROGRAMS.—(1)*
23 *The Secretary of Defense shall, in consultation with the Di-*
24 *rector of Central Intelligence, review options for strength-*
25 *ening the role of the Director of the National Imagery and*

1 *Mapping Agency as the functional manager for United*
2 *States imagery and geospatial programs.*

3 (2) *Not later than March 15, 2001, the Secretary shall*
4 *submit to the appropriate committees of Congress a report*
5 *on the review required by subsection (b). The report shall*
6 *include any recommendations regarding modifications in*
7 *the role and duties of the Director of the National Imagery*
8 *and Mapping Agency that the Secretary considers appro-*
9 *priate in light of the review.*

10 (3) *In this subsection, the term “appropriate commit-*
11 *tees of Congress” means the following:*

12 (A) *The Committee on Armed Services and the*
13 *Select Committee on Intelligence of the Senate.*

14 (B) *The Committee on Armed Services and the*
15 *Permanent Select Committee on Intelligence of the*
16 *House of Representatives.*

17 **SEC. 504. PROHIBITION ON TRANSFER OF COLLECTION**
18 **MANAGEMENT PERSONNEL FROM GENERAL**
19 **DEFENSE INTELLIGENCE PROGRAM TO COM-**
20 **MUNITY MANAGEMENT ACCOUNT.**

21 *No funds authorized to be appropriated by this Act*
22 *may be transferred from the General Defense Intelligence*
23 *Program to the Community Management Account for pur-*
24 *poses of transferring intelligence collection management*
25 *personnel.*

1 **SEC. 505. AUTHORIZED PERSONNEL CEILING FOR GENERAL**
2 **DEFENSE INTELLIGENCE PROGRAM.**

3 *The authorized personnel ceiling for the General De-*
4 *fense Intelligence Program specified in the classified Sched-*
5 *ule of Authorizations referred to in section 102 is hereby*
6 *increased by 2,152 positions.*

7 **SEC. 506. MEASUREMENT AND SIGNATURE INTELLIGENCE.**

8 *(a) STUDY OF OPTIONS.—The Director of Central In-*
9 *telligence shall, in coordination with the Secretary of De-*
10 *fense, conduct a study of the utility and feasibility of var-*
11 *ious options for improving the management and organiza-*
12 *tion of measurement and signature intelligence,*
13 *including—*

14 *(1) the option of establishing a centralized*
15 *tasking, processing, exploitation, and dissemination*
16 *facility for measurement and signature intelligence;*

17 *(2) options for recapitalizing and reconfiguring*
18 *the current systems for measurement and signature*
19 *intelligence; and*

20 *(3) the operation and maintenance costs of the*
21 *various options.*

22 *(b) REPORT.—Not later than April 1, 2001, the Direc-*
23 *tor and the Secretary shall jointly submit to the appro-*
24 *priate committees of Congress a report on their findings*
25 *as a result of the study required by subsection (a). The re-*

1 port shall set forth any recommendations that the Director
2 and the Secretary consider appropriate.

3 (c) *APPROPRIATE COMMITTEES OF CONGRESS DE-*
4 *FINED.*—*In this section, the term “appropriate committees*
5 *of Congress” means the following:*

6 (1) *The Committee on Armed Services and the*
7 *Select Committee on Intelligence of the Senate.*

8 (2) *The Committee on Armed Services and the*
9 *Permanent Select Committee on Intelligence of the*
10 *House of Representatives.*

11 **TITLE VI—COUNTERINTELLI-**
12 **GENCE MATTERS**

13 **SEC. 601. SHORT TITLE.**

14 *This title may be cited as the “Counterintelligence Re-*
15 *form Act of 2000”.*

16 **SEC. 602. ORDERS FOR ELECTRONIC SURVEILLANCE**
17 **UNDER THE FOREIGN INTELLIGENCE SUR-**
18 **VEILLANCE ACT OF 1978.**

19 (a) *REQUIREMENTS REGARDING CERTAIN APPLICA-*
20 *TIONS.*—*Section 104 of the Foreign Intelligence Surveil-*
21 *lance Act of 1978 (50 U.S.C. 1804) is amended by adding*
22 *at the end the following new subsection:*

23 “(e)(1)(A) *Upon written request of the Director of the*
24 *Federal Bureau of Investigation, the Secretary of Defense,*
25 *the Secretary of State, or the Director of Central Intel-*

1 *ligence, the Attorney General shall personally review under*
2 *subsection (a) an application under that subsection for a*
3 *target described in section 101(b)(2).*

4 “(B) *Except when disabled or otherwise unavailable*
5 *to make a request referred to in subparagraph (A), an offi-*
6 *cial referred to in that subparagraph may not delegate the*
7 *authority to make a request referred to in that subpara-*
8 *graph.*

9 “(C) *Each official referred to in subparagraph (A)*
10 *with authority to make a request under that subparagraph*
11 *shall take appropriate actions in advance to ensure that*
12 *delegation of such authority is clearly established in the*
13 *event such official is disabled or otherwise unavailable to*
14 *make such request.*

15 “(2)(A) *If as a result of a request under paragraph*
16 *(1) the Attorney General determines not to approve an ap-*
17 *plication under the second sentence of subsection (a) for*
18 *purposes of making the application under this section, the*
19 *Attorney General shall provide written notice of the deter-*
20 *mination to the official making the request for the review*
21 *of the application under that paragraph. Except when dis-*
22 *abled or otherwise unavailable to make a determination*
23 *under the preceding sentence, the Attorney General may not*
24 *delegate the responsibility to make a determination under*
25 *that sentence. The Attorney General shall take appropriate*

1 *actions in advance to ensure that delegation of such respon-*
2 *sibility is clearly established in the event the Attorney Gen-*
3 *eral is disabled or otherwise unavailable to make such deter-*
4 *mination.*

5 “(B) Notice with respect to an application under sub-
6 paragraph (A) shall set forth the modifications, if any, of
7 the application that are necessary in order for the Attorney
8 General to approve the application under the second sen-
9 tence of subsection (a) for purposes of making the applica-
10 tion under this section.

11 “(C) Upon review of any modifications of an applica-
12 tion set forth under subparagraph (B), the official notified
13 of the modifications under this paragraph shall modify the
14 application if such official determines that such modifica-
15 tion is warranted. Such official shall supervise the making
16 of any modification under this subparagraph. Except when
17 disabled or otherwise unavailable to supervise the making
18 of any modification under the preceding sentence, such offi-
19 cial may not delegate the responsibility to supervise the
20 making of any modification under that preceding sentence.
21 Each such official shall take appropriate actions in advance
22 to ensure that delegation of such responsibility is clearly
23 established in the event such official is disabled or otherwise
24 unavailable to supervise the making of such modification.”.

1 (b) *PROBABLE CAUSE*.—Section 105 of that Act (50
2 U.S.C. 1805) is amended—

3 (1) by redesignating subsections (b), (c), (d), (e),
4 (f), and (g) as subsections (c), (d), (e), (f), (g), and
5 (h), respectively;

6 (2) by inserting after subsection (a) the following
7 new subsection (b):

8 “(b) In determining whether or not probable cause ex-
9 ists for purposes of an order under subsection (a)(3), a judge
10 may consider past activities of the target, as well as facts
11 and circumstances relating to current or future activities
12 of the target.”; and

13 (3) in subsection (d), as redesignated by para-
14 graph (1), by striking “subsection (b)(1)” and insert-
15 ing “subsection (c)(1)”.

16 **SEC. 603. ORDERS FOR PHYSICAL SEARCHES UNDER THE**
17 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
18 **OF 1978.**

19 (a) *REQUIREMENTS REGARDING CERTAIN APPLICA-*
20 *TIONS*.—Section 303 of the Foreign Intelligence Surveil-
21 lance Act of 1978 (50 U.S.C. 1823) is amended by adding
22 at the end the following new subsection:

23 “(d)(1)(A) Upon written request of the Director of the
24 Federal Bureau of Investigation, the Secretary of Defense,
25 the Secretary of State, or the Director of Central Intel-

1 *ligence, the Attorney General shall personally review under*
2 *subsection (a) an application under that subsection for a*
3 *target described in section 101(b)(2).*

4 “(B) *Except when disabled or otherwise unavailable*
5 *to make a request referred to in subparagraph (A), an offi-*
6 *cial referred to in that subparagraph may not delegate the*
7 *authority to make a request referred to in that subpara-*
8 *graph.*

9 “(C) *Each official referred to in subparagraph (A)*
10 *with authority to make a request under that subparagraph*
11 *shall take appropriate actions in advance to ensure that*
12 *delegation of such authority is clearly established in the*
13 *event such official is disabled or otherwise unavailable to*
14 *make such request.*

15 “(2)(A) *If as a result of a request under paragraph*
16 *(1) the Attorney General determines not to approve an ap-*
17 *plication under the second sentence of subsection (a) for*
18 *purposes of making the application under this section, the*
19 *Attorney General shall provide written notice of the deter-*
20 *mination to the official making the request for the review*
21 *of the application under that paragraph. Except when dis-*
22 *abled or otherwise unavailable to make a determination*
23 *under the preceding sentence, the Attorney General may not*
24 *delegate the responsibility to make a determination under*
25 *that sentence. The Attorney General shall take appropriate*

1 *actions in advance to ensure that delegation of such respon-*
2 *sibility is clearly established in the event the Attorney Gen-*
3 *eral is disabled or otherwise unavailable to make such deter-*
4 *mination.*

5 “(B) Notice with respect to an application under sub-
6 paragraph (A) shall set forth the modifications, if any, of
7 the application that are necessary in order for the Attorney
8 General to approve the application under the second sen-
9 tence of subsection (a) for purposes of making the applica-
10 tion under this section.

11 “(C) Upon review of any modifications of an applica-
12 tion set forth under subparagraph (B), the official notified
13 of the modifications under this paragraph shall modify the
14 application if such official determines that such modifica-
15 tion is warranted. Such official shall supervise the making
16 of any modification under this subparagraph. Except when
17 disabled or otherwise unavailable to supervise the making
18 of any modification under the preceding sentence, such offi-
19 cial may not delegate the responsibility to supervise the
20 making of any modification under that preceding sentence.
21 Each such official shall take appropriate actions in advance
22 to ensure that delegation of such responsibility is clearly
23 established in the event such official is disabled or otherwise
24 unavailable to supervise the making of such modification.”.

1 (b) *PROBABLE CAUSE*.—Section 304 of that Act (50
2 U.S.C. 1824) is amended—

3 (1) by redesignating subsections (b), (c), (d), and
4 (e) as subsections (c), (d), (e), and (f), respectively;
5 and

6 (2) by inserting after subsection (a) the following
7 new subsection (b):

8 “(b) In determining whether or not probable cause ex-
9 ists for purposes of an order under subsection (a)(3), a judge
10 may consider past activities of the target, as well as facts
11 and circumstances relating to current or future activities
12 of the target.”.

13 **SEC. 604. DISCLOSURE OF INFORMATION ACQUIRED UNDER**
14 **THE FOREIGN INTELLIGENCE SURVEILLANCE**
15 **ACT OF 1978 FOR LAW ENFORCEMENT PUR-**
16 **POSES.**

17 (a) *INCLUSION OF INFORMATION ON DISCLOSURE IN*
18 *SEMIANNUAL OVERSIGHT REPORT*.—Section 108(a) of the
19 *Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.*
20 *1808(a)) is amended—*

21 (1) by inserting “(1)” after “(a)”; and

22 (2) by adding at the end the following new para-
23 graph:

24 “(2) Each report under the first sentence of paragraph
25 (1) shall include a description of—

1 “(A) *each criminal case in which information*
2 *acquired under this Act has been passed for law en-*
3 *forcement purposes during the period covered by such*
4 *report; and*

5 “(B) *each criminal case in which information*
6 *acquired under this Act has been authorized for use*
7 *at trial during such reporting period.”.*

8 ***(b) REPORT ON MECHANISMS FOR DETERMINATIONS***
9 ***OF DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT***
10 ***PURPOSES.—(1) The Attorney General shall submit to the***
11 ***appropriate committees of Congress a report on the authori-***
12 ***ties and procedures utilized by the Department of Justice***
13 ***for determining whether or not to disclose information ac-***
14 ***quired under the Foreign Intelligence Surveillance Act of***
15 ***1978 (50 U.S.C. 1801 et seq.) for law enforcement purposes.***

16 ***(2) In this subsection, the term “appropriate commit-***
17 ***tees of Congress” means the following:***

18 ***(A) The Select Committee on Intelligence and the***
19 ***Committee on the Judiciary of the Senate.***

20 ***(B) The Permanent Select Committee on Intel-***
21 ***ligence and the Committee on the Judiciary of the***
22 ***House of Representatives.***

1 **SEC. 605. COORDINATION OF COUNTERINTELLIGENCE**
2 **WITH THE FEDERAL BUREAU OF INVESTIGA-**
3 **TION.**

4 (a) *TREATMENT OF CERTAIN SUBJECTS OF INVES-*
5 *TIGATION.*—*Subsection (c) of section 811 of the Intelligence*
6 *Authorization Act for Fiscal Year 1995 (50 U.S.C. 402a)*
7 *is amended—*

8 (1) *in paragraphs (1) and (2), by striking*
9 *“paragraph (3)” and inserting “paragraph (5)”;*

10 (2) *by redesignating paragraphs (3), (4), (5),*
11 *and (6) as paragraphs (5), (6), (7), and (8), respec-*
12 *tively;*

13 (3) *by inserting after paragraph (2) the fol-*
14 *lowing new paragraph (3):*

15 “(3)(A) *The Director of the Federal Bureau of Inves-*
16 *tigation shall submit to the head of the department or agen-*
17 *cy concerned a written assessment of the potential impact*
18 *of the actions of the department or agency on a counterintel-*
19 *ligence investigation.*

20 “(B) *The head of the department or agency concerned*
21 *shall—*

22 “(i) *use an assessment under subparagraph (A)*
23 *as an aid in determining whether, and under what*
24 *circumstances, the subject of an investigation under*
25 *paragraph (1) should be left in place for investigative*
26 *purposes; and*

1 “(ii) notify in writing the Director of the Fed-
2 eral Bureau of Investigation of such determination.

3 “(C) The Director of the Federal Bureau of Investiga-
4 tion and the head of the department or agency concerned
5 shall continue to consult, as appropriate, to review the sta-
6 tus of an investigation covered by this paragraph and to
7 reassess, as appropriate, a determination of the head of the
8 department or agency concerned to leave a subject in place
9 for investigative purposes.”; and

10 (4) in paragraph (5), as so redesignated, by
11 striking “paragraph (1) or (2)” and inserting “para-
12 graph (1), (2), or (3)”.

13 (b) *TIMELY PROVISION OF INFORMATION AND CON-*
14 *SULTATION ON ESPIONAGE INVESTIGATIONS.*—Paragraph
15 (2) of that subsection is further amended—

16 (1) by inserting “in a timely manner” after
17 “through appropriate channels”; and

18 (2) by inserting “in a timely manner” after “are
19 consulted”.

20 (c) *INTERFERENCE WITH FULL FIELD ESPIONAGE IN-*
21 *VESTIGATIONS.*—That subsection is further amended by in-
22 serting after paragraph (3), as amended by subsection (a)
23 of this section, the following new paragraph (4):

24 “(4)(A) The Federal Bureau of Investigation shall no-
25 tify appropriate officials within the executive branch, in-

1 *cluding the head of the department or agency concerned,*
2 *of the commencement of a full field espionage investigation*
3 *with respect to an employee within the executive branch.*

4 “(B)(i) *A department or agency may not conduct a*
5 *polygraph examination, interrogate, or otherwise take any*
6 *action that is likely to alert an employee covered by a notice*
7 *under subparagraph (A) of an investigation described in*
8 *that subparagraph without prior coordination with the*
9 *Federal Bureau of Investigation.*

10 “(ii) *Any examination, interrogation, or other action*
11 *taken under clause (i) shall be taken in consultation with*
12 *the Federal Bureau of Investigation.*”.

13 **SEC. 606. ENHANCING PROTECTION OF NATIONAL SECU-**
14 **RITY AT THE DEPARTMENT OF JUSTICE.**

15 (a) *AUTHORIZATION FOR INCREASED RESOURCES TO*
16 *FULFILL NATIONAL SECURITY MISSION OF THE DEPART-*
17 *MENT OF JUSTICE.—There are authorized to be appro-*
18 *priated to the Department of Justice for the activities of*
19 *the Office of Intelligence Policy and Review to help meet*
20 *the increased personnel demands to combat terrorism, proc-*
21 *ess applications to the Foreign Intelligence Surveillance*
22 *Court, participate effectively in counter-espionage inves-*
23 *tigations, provide policy analysis on national security*
24 *issues, and enhance secure computer and telecommuni-*
25 *cations facilities—*

1 (1) \$7,000,000 for fiscal year 2001;

2 (2) \$7,500,000 for fiscal year 2002; and

3 (3) \$8,000,000 for fiscal year 2003.

4 (b) *AVAILABILITY OF FUNDS.*—(1) *No funds author-*
5 *ized to be appropriated by subsection (a) for the Office of*
6 *Intelligence Policy and Review may be obligated or ex-*
7 *pendent until the later of the dates on which the Attorney*
8 *General submits the reports required by paragraphs (2) and*
9 *(3).*

10 (2)(A) *The Attorney General shall submit to the com-*
11 *mittees of Congress specified in subparagraph (B) a report*
12 *on the manner in which the funds authorized to be appro-*
13 *priated by subsection (a) for the Office of Intelligence Policy*
14 *and Review will be used by that Office—*

15 (i) *to improve and strengthen its oversight of*
16 *Federal Bureau of Investigation field offices in the*
17 *implementation of orders under the Foreign Intel-*
18 *ligence Surveillance Act of 1978 (50 U.S.C. 1801 et*
19 *seq.); and*

20 (ii) *to streamline and increase the efficiency of*
21 *the application process under that Act.*

22 (B) *The committees of Congress referred to in this sub-*
23 *paragraph are the following:*

24 (i) *The Select Committee on Intelligence and the*
25 *Committee on the Judiciary of the Senate.*

1 (ii) *The Permanent Select Committee on Intel-*
2 *ligence and the Committee on the Judiciary of the*
3 *House of Representatives.*

4 (3) *In addition to the report required by paragraph*
5 *(2), the Attorney General shall also submit to the Select*
6 *Committee on Intelligence of the Senate and the Permanent*
7 *Select Committee on Intelligence of the House of Represent-*
8 *atives a report that addresses the issues identified in the*
9 *semiannual report of the Attorney General to such commit-*
10 *tees under section 108(a) of the Foreign Intelligence Sur-*
11 *veillance Act of 1978 (50 U.S.C. 1808(a)) that was sub-*
12 *mitted in April 2000, including any corrective actions with*
13 *regard to such issues. The report under this paragraph shall*
14 *be submitted in classified form.*

15 (4) *Funds made available pursuant to subsection (a),*
16 *in any fiscal year, shall remain available until expended.*

17 (c) *REPORT ON COORDINATING NATIONAL SECURITY*
18 *AND INTELLIGENCE FUNCTIONS WITHIN THE DEPARTMENT*
19 *OF JUSTICE.—The Attorney General shall report to the Se-*
20 *lect Committee on Intelligence and the Committee on the*
21 *Judiciary of the Senate and the Permanent Select Com-*
22 *mittee on Intelligence and the Committee on the Judiciary*
23 *of the House of Representatives within 120 days on actions*
24 *that have been or will be taken by the Department to—*

1 (1) *promote quick and efficient responses to na-*
2 *tional security issues;*

3 (2) *centralize a point-of-contact within the De-*
4 *partment on national security matters for external*
5 *entities and agencies; and*

6 (3) *coordinate the dissemination of intelligence*
7 *information within the appropriate components of the*
8 *Department and the formulation of policy on na-*
9 *tional security issues.*

10 **SEC. 607. COORDINATION REQUIREMENTS RELATING TO**
11 **THE PROSECUTION OF CASES INVOLVING**
12 **CLASSIFIED INFORMATION.**

13 *The Classified Information Procedures Act (18 U.S.C.*
14 *App.) is amended by inserting after section 9 the following*
15 *new section:*

16 “*COORDINATION REQUIREMENTS RELATING TO THE PROS-*
17 *ECUTION OF CASES INVOLVING CLASSIFIED INFORMA-*
18 *TION*

19 “*SEC. 9A. (a) BRIEFINGS REQUIRED.—The Assistant*
20 *Attorney General for the Criminal Division and the appro-*
21 *priate United States Attorney, or the designees of such offi-*
22 *cials, shall provide briefings to the senior agency official,*
23 *or the designee of such official, with respect to any case in-*
24 *volving classified information that originated in the agency*
25 *of such senior agency official.*

1 “(b) *TIMING OF BRIEFINGS.*—Briefings under sub-
2 section (a) with respect to a case shall occur—

3 “(1) as soon as practicable after the Department
4 of Justice and the United States Attorney concerned
5 determine that a prosecution or potential prosecution
6 could result; and

7 “(2) at such other times thereafter as are nec-
8 essary to keep the senior agency official concerned
9 fully and currently informed of the status of the pros-
10 ecution.

11 “(c) *SENIOR AGENCY OFFICIAL DEFINED.*—In this
12 section, the term ‘senior agency official’ has the meaning
13 given that term in section 1.1 of Executive Order No.
14 12958.”.

15 **SEC. 608. SEVERABILITY.**

16 If any provision of this title (including an amendment
17 made by this title), or the application thereof, to any person
18 or circumstance, is held invalid, the remainder of this title
19 (including the amendments made by this title), and the ap-
20 plication thereof, to other persons or circumstances shall not
21 be affected thereby.

1 **TITLE VII—DISCLOSURE OF IN-**
2 **FORMATION ON JAPANESE**
3 **IMPERIAL ARMY**

4 **SEC. 701. SHORT TITLE.**

5 *This title may be cited as the “Japanese Imperial*
6 *Army Disclosure Act”.*

7 **SEC. 702. ESTABLISHMENT OF JAPANESE IMPERIAL ARMY**
8 **RECORDS INTERAGENCY WORKING GROUP.**

9 (a) *DEFINITIONS.—In this section:*

10 (1) *AGENCY.—The term “agency” has the mean-*
11 *ing given such term under section 551 of title 5,*
12 *United States Code.*

13 (2) *INTERAGENCY GROUP.—The term “Inter-*
14 *agency Group” means the Japanese Imperial Army*
15 *Records Interagency Working Group established*
16 *under subsection (b).*

17 (3) *JAPANESE IMPERIAL ARMY RECORDS.—The*
18 *term “Japanese Imperial Army records” means clas-*
19 *sified records or portions of records that pertain to*
20 *any person with respect to whom the United States*
21 *Government, in its sole discretion, has grounds to be-*
22 *lieve ordered, incited, assisted, or otherwise partici-*
23 *ipated in the experimentation and persecution of any*
24 *person because of race, religion, national origin, or*
25 *political option, during the period beginning Sep-*

1 *tember 18, 1931, and ending on December 31, 1948,*
2 *under the direction of, or in association with—*

3 *(A) the Japanese Imperial Army;*

4 *(B) any government in any area occupied*
5 *by the military forces of the Japanese Imperial*
6 *Army;*

7 *(C) any government established with the as-*
8 *sistance or cooperation of the Japanese Imperial*
9 *Army; or*

10 *(D) any government which was an ally of*
11 *the Imperial Army of Japan.*

12 *(4) RECORD.—The term “record” means a Japa-*
13 *nese Imperial Army record.*

14 *(b) ESTABLISHMENT OF INTERAGENCY GROUP.—*

15 *(1) IN GENERAL.—Not later than 60 days after*
16 *the date of the enactment of this Act, the President*
17 *shall establish the Japanese Imperial Army Records*
18 *Interagency Working Group, which shall remain in*
19 *existence for 3 years after the date the Interagency*
20 *Group is established.*

21 *(2) MEMBERSHIP.—The President shall appoint*
22 *to the Interagency Group individuals whom the Presi-*
23 *dent determines will most completely and effectively*
24 *carry out the functions of the Interagency Group*
25 *within the time limitations provided in this section,*

1 *including the Historian of the Department of State,*
2 *the Archivist of the United States, the head of any*
3 *other agency the President considers appropriate, and*
4 *no more than 3 other persons. The head of an agency*
5 *appointed by the President may designate an appro-*
6 *priate officer to serve on the Interagency Group in*
7 *lieu of the head of such agency.*

8 (3) *INITIAL MEETING.*—*Not later than 90 days*
9 *after the date of the enactment of this Act, the Inter-*
10 *agency Group shall hold an initial meeting and begin*
11 *the functions required under this section.*

12 (c) *FUNCTIONS.*—*Not later than 1 year after the date*
13 *of the enactment of this Act, the Interagency Group shall,*
14 *to the greatest extent possible consistent with section 703—*

15 (1) *locate, identify, inventory, recommend for de-*
16 *classification, and make available to the public at the*
17 *National Archives and Records Administration, all*
18 *classified Japanese Imperial Army records of the*
19 *United States;*

20 (2) *coordinate with agencies and take such ac-*
21 *tions as necessary to expedite the release of such*
22 *records to the public; and*

23 (3) *submit a report to Congress, including the*
24 *Committee on Government Reform and Oversight of*
25 *the House of Representatives, the Select Committee on*

1 *Intelligence of the Senate, the Permanent Select Com-*
2 *mittee on Intelligence of the House of Representatives,*
3 *and the Committee on the Judiciary of the Senate, de-*
4 *scribing all such records, the disposition of such*
5 *records, and the activities of the Interagency Group*
6 *and agencies under this section.*

7 *(d) FUNDING.—There is authorized to be appropriated*
8 *such sum as may be necessary to carry out the provisions*
9 *of this title.*

10 **SEC. 703. REQUIREMENT OF DISCLOSURE OF RECORDS.**

11 *(a) RELEASE OF RECORDS.—Subject to subsections*
12 *(b), (c), and (d), the Japanese Imperial Army Records*
13 *Interagency Working Group shall release in their entirety*
14 *Japanese Imperial Army records.*

15 *(b) EXCEPTION FOR PRIVACY.—An agency head may*
16 *exempt from release under subsection (a) specific informa-*
17 *tion, that would—*

18 *(1) constitute a clearly unwarranted invasion of*
19 *personal privacy;*

20 *(2) reveal the identity of a confidential human*
21 *source, or reveal information about the application of*
22 *an intelligence source or method, or reveal the iden-*
23 *tity of a human intelligence source when the unau-*
24 *thorized disclosure of that source would clearly and*

1 *demonstrably damage the national security interests*
2 *of the United States;*

3 (3) *reveal information that would assist in the*
4 *development or use of weapons of mass destruction;*

5 (4) *reveal information that would impair United*
6 *States cryptologic systems or activities;*

7 (5) *reveal information that would impair the ap-*
8 *plication of state-of-the-art technology within a*
9 *United States weapon system;*

10 (6) *reveal actual United States military war*
11 *plans that remain in effect;*

12 (7) *reveal information that would seriously and*
13 *demonstrably impair relations between the United*
14 *States and a foreign government, or seriously and de-*
15 *monstrably undermine ongoing diplomatic activities*
16 *of the United States;*

17 (8) *reveal information that would clearly, and*
18 *demonstrably impair the current ability of United*
19 *States Government officials to protect the President,*
20 *Vice President, and other officials for whom protec-*
21 *tion services are authorized in the interest of national*
22 *security;*

23 (9) *reveal information that would seriously and*
24 *demonstrably impair current national security emer-*
25 *gency preparedness plans; or*

1 (10) *violate a treaty or other international*
2 *agreement.*

3 (c) *APPLICATIONS OF EXEMPTIONS.—*

4 (1) *IN GENERAL.—In applying the exemptions*
5 *provided in paragraphs (2) through (10) of subsection*
6 *(b), there shall be a presumption that the public in-*
7 *terest will be served by disclosure and release of the*
8 *records of the Japanese Imperial Army. The exemp-*
9 *tion may be asserted only when the head of the agency*
10 *that maintains the records determines that disclosure*
11 *and release would be harmful to a specific interest*
12 *identified in the exemption. An agency head who*
13 *makes such a determination shall promptly report it*
14 *to the committees of Congress with appropriate juris-*
15 *isdiction, including the Committee on the Judiciary*
16 *and the Select Committee on Intelligence of the Senate*
17 *and the Committee on Government Reform and Over-*
18 *sight and the Permanent Select Committee on Intel-*
19 *ligence of the House of Representatives.*

20 (2) *APPLICATION OF TITLE 5.—A determination*
21 *by an agency head to apply an exemption provided*
22 *in paragraphs (2) through (9) of subsection (b) shall*
23 *be subject to the same standard of review that applies*
24 *in the case of records withheld under section 552(b)(1)*
25 *of title 5, United States Code.*

1 (d) *LIMITATION ON EXEMPTIONS.*—

2 (1) *IN GENERAL.*—*The exemptions set forth in*
3 *subsection (b) shall constitute the only grounds pursu-*
4 *ant to which an agency head may exempt records oth-*
5 *erwise subject to release under subsection (a).*

6 (2) *RECORDS RELATED TO INVESTIGATION OR*
7 *PROSECUTIONS.*—*This section shall not apply to*
8 *records—*

9 (A) *related to or supporting any active or*
10 *inactive investigation, inquiry, or prosecution by*
11 *the Office of Special Investigations of the De-*
12 *partment of Justice; or*

13 (B) *solely in the possession, custody, or con-*
14 *trol of the Office of Special Investigations.*

15 **SEC. 704. EXPEDITED PROCESSING OF FOIA REQUESTS FOR**
16 **JAPANESE IMPERIAL ARMY RECORDS.**

17 *For purposes of expedited processing under section*
18 *552(a)(6)(E) of title 5, United States Code, any person who*
19 *was persecuted in the manner described in section 702(a)(3)*
20 *and who requests a Japanese Imperial Army record shall*
21 *be deemed to have a compelling need for such record.*

22 **SEC. 705. EFFECTIVE DATE.**

23 *The provisions of this title shall take effect on the date*
24 *that is 90 days after the date of the enactment of this Act.*

1 **TITLE VIII—DECLASSIFICATION**
2 **OF INFORMATION**

3 **SEC. 801. SHORT TITLE.**

4 *This title may be cited as the “Public Interest Declassification Act of 2000”.*

6 **SEC. 802. FINDINGS.**

7 *Congress makes the following findings:*

8 *(1) It is in the national interest to establish an*
9 *effective, coordinated, and cost-effective means by*
10 *which records on specific subjects of extraordinary*
11 *public interest that do not undermine the national se-*
12 *curity interests of the United States may be collected,*
13 *retained, reviewed, and disseminated to Congress, pol-*
14 *icymakers in the executive branch, and the public.*

15 *(2) Ensuring, through such measures, public ac-*
16 *cess to information that does not require continued*
17 *protection to maintain the national security interests*
18 *of the United States is a key to striking the balance*
19 *between secrecy essential to national security and the*
20 *openness that is central to the proper functioning of*
21 *the political institutions of the United States.*

22 **SEC. 803. PUBLIC INTEREST DECLASSIFICATION BOARD.**

23 *(a) ESTABLISHMENT.—There is established within the*
24 *executive branch of the United States a board to be known*

1 *as the “Public Interest Declassification Board” (in this title*
2 *referred to as the “Board”).*

3 (b) *PURPOSES.*—*The purposes of the Board are as fol-*
4 *lows:*

5 (1) *To advise the President, the Assistant to the*
6 *President for National Security Affairs, the Director*
7 *of the Office of Management and Budget, and such*
8 *other executive branch officials as the Board considers*
9 *appropriate on the systematic, thorough, coordinated,*
10 *and comprehensive identification, collection, review*
11 *for declassification, and release to Congress, interested*
12 *agencies, and the public of declassified records and*
13 *materials (including donated historical materials)*
14 *that are of archival value, including records and ma-*
15 *terials of extraordinary public interest.*

16 (2) *To promote the fullest possible public access*
17 *to a thorough, accurate, and reliable documentary*
18 *record of significant United States national security*
19 *decisions and significant United States national secu-*
20 *rity activities in order to—*

21 (A) *support the oversight and legislative*
22 *functions of Congress;*

23 (B) *support the policymaking role of the ex-*
24 *ecutive branch;*

1 (C) respond to the interest of the public in
2 national security matters; and

3 (D) promote reliable historical analysis and
4 new avenues of historical study in national secu-
5 rity matters.

6 (3) To provide recommendations to the President
7 for the identification, collection, and review for de-
8 classification of information of extraordinary public
9 interest that does not undermine the national security
10 of the United States, to be undertaken in accordance
11 with a declassification program that has been estab-
12 lished or may be established by the President by Exec-
13 utive Order.

14 (4) To advise the President, the Assistant to the
15 President for National Security Affairs, the Director
16 of the Office of Management and Budget, and such
17 other executive branch officials as the Board considers
18 appropriate on policies deriving from the issuance by
19 the President of Executive Orders regarding the clas-
20 sification and declassification of national security in-
21 formation.

22 (c) MEMBERSHIP.—(1) The Board shall be composed
23 of nine individuals appointed from among citizens of the
24 United States who are preeminent in the fields of history,
25 national security, foreign policy, intelligence policy, social

1 *science, law, or archives, including individuals who have*
2 *served in Congress or otherwise in the Federal Government*
3 *or have otherwise engaged in research, scholarship, or publi-*
4 *cation in such fields on matters relating to the national*
5 *security of the United States, of whom—*

6 *(A) five shall be appointed by the President;*

7 *(B) one shall be appointed by the Majority Lead-*
8 *er of the Senate;*

9 *(C) one shall be appointed by the Minority Lead-*
10 *er of the Senate;*

11 *(D) one shall be appointed by the Speaker of the*
12 *House of Representatives; and*

13 *(E) one shall be appointed by the Minority*
14 *Leader of the House of Representatives.*

15 *(2)(A) Of the members initially appointed to the*
16 *Board, three shall be appointed for a term of four years,*
17 *three shall be appointed for a term of three years, and three*
18 *shall be appointed for a term of two years.*

19 *(B) Any subsequent appointment to the Board shall*
20 *be for a term of three years.*

21 *(3) A vacancy in the Board shall be filled in the same*
22 *manner as the original appointment. A member of the*
23 *Board appointed to fill a vacancy before the expiration of*
24 *a term shall serve for the remainder of the term.*

1 (4) *A member of the Board may be appointed to a*
2 *new term on the Board upon the expiration of the member's*
3 *term on the Board, except that no member may serve more*
4 *than three full terms on the Board.*

5 (d) *CHAIRPERSON; EXECUTIVE SECRETARY.—(1)(A)*
6 *The President shall designate one of the members of the*
7 *Board as the Chairperson of the Board.*

8 (B) *The term of service as Chairperson of the Board*
9 *shall be two years.*

10 (C) *A member serving as Chairperson of the Board*
11 *may be re-designated as Chairperson of the Board upon the*
12 *expiration of the member's term as Chairperson of the*
13 *Board, except that no member shall serve as Chairperson*
14 *of the Board for more than six years.*

15 (2) *The Director of the Information Security Oversight*
16 *Office shall serve as the Executive Secretary of the Board.*

17 (e) *MEETINGS.—The Board shall meet as needed to ac-*
18 *complish its mission, consistent with the availability of*
19 *funds. A majority of the members of the Board shall con-*
20 *stitute a quorum.*

21 (f) *STAFF.—Any employee of the Federal Government*
22 *may be detailed to the Board, with the agreement of and*
23 *without reimbursement to the detailing agency, and such*
24 *detail shall be without interruption or loss of civil, mili-*
25 *tary, or foreign service status or privilege.*

1 (g) *SECURITY.*—(1) *The members and staff of the*
2 *Board shall, as a condition of appointment to or employ-*
3 *ment with the Board, hold appropriate security clearances*
4 *for access to the classified records and materials to be re-*
5 *viewed by the Board or its staff, and shall follow the guid-*
6 *ance and practices on security under applicable Executive*
7 *Orders and agency directives.*

8 (2) *The head of an agency shall, as a condition of*
9 *granting access to a member of the Board, the Executive*
10 *Secretary of the Board, or a member of the staff of the*
11 *Board to classified records or materials of the agency under*
12 *this title, require the member, the Executive Secretary, or*
13 *the member of the staff, as the case may be, to—*

14 (A) *execute an agreement regarding the security*
15 *of such records or materials that is approved by the*
16 *head of the agency; and*

17 (B) *hold an appropriate security clearance*
18 *granted or recognized under the standard procedures*
19 *and eligibility criteria of the agency, including any*
20 *special access approval required for access to such*
21 *records or materials.*

22 (3) *The members of the Board, the Executive Secretary*
23 *of the Board, and the members of the staff of the Board*
24 *may not use any information acquired in the course of their*
25 *official activities on the Board for nonofficial purposes.*

1 (4) *For purposes of any law or regulation governing*
2 *access to classified information that pertains to the national*
3 *security of the United States, and subject to any limitations*
4 *on access arising under section 806(b), and to facilitate the*
5 *advisory functions of the Board under this title, a member*
6 *of the Board seeking access to a record or material under*
7 *this title shall be deemed for purposes of this subsection to*
8 *have a need to know the contents of the record or material.*

9 (h) *COMPENSATION.—(1) Each member of the Board*
10 *shall receive compensation at a rate not to exceed the daily*
11 *equivalent of the annual rate of basic pay payable for posi-*
12 *tions at ES–1 of the Senior Executive Service under section*
13 *5382 of title 5, United States Code, for each day such mem-*
14 *ber is engaged in the actual performance of duties of the*
15 *Board.*

16 (2) *Members of the Board shall be allowed travel ex-*
17 *penses, including per diem in lieu of subsistence at rates*
18 *authorized for employees of agencies under subchapter of*
19 *chapter 57 of title 5, United States Code, while away from*
20 *their homes or regular places of business in the performance*
21 *of the duties of the Board.*

22 (i) *GUIDANCE; ANNUAL BUDGET.—(1) On behalf of the*
23 *President, the Assistant to the President for National Secu-*
24 *rity Affairs shall provide guidance on policy to the Board.*

1 (2) *The Executive Secretary of the Board, under the*
2 *direction of the Chairperson of the Board and the Board,*
3 *and acting in consultation with the Archivist of the United*
4 *States, the Assistant to the President for National Security*
5 *Affairs, and the Director of the Office of Management and*
6 *Budget, shall prepare the annual budget of the Board.*

7 (j) *SUPPORT.—The Information Security Oversight*
8 *Office may support the activities of the Board under this*
9 *title. Such support shall be provided on a reimbursable*
10 *basis.*

11 (k) *PUBLIC AVAILABILITY OF RECORDS AND RE-*
12 *PORTS.—(1) The Board shall make available for public in-*
13 *spection records of its proceedings and reports prepared in*
14 *the course of its activities under this title to the extent such*
15 *records and reports are not classified and would not be ex-*
16 *empt from release under the provisions of section 552 of*
17 *title 5, United States Code.*

18 (2) *In making records and reports available under*
19 *paragraph (1), the Board shall coordinate the release of*
20 *such records and reports with appropriate officials from*
21 *agencies with expertise in classified information in order*
22 *to ensure that such records and reports do not inadvertently*
23 *contain classified information.*

24 (l) *APPLICABILITY OF CERTAIN ADMINISTRATIVE*
25 *LAWS.—The provisions of the Federal Advisory Committee*

1 *Act (5 U.S.C. App.) shall not apply to the activities of the*
2 *Board under this title. However, the records of the Board*
3 *shall be governed by the provisions of the Federal Records*
4 *Act of 1950.*

5 **SEC. 804. IDENTIFICATION, COLLECTION, AND REVIEW FOR**
6 **DECLASSIFICATION OF INFORMATION OF AR-**
7 **CHIVAL VALUE OR EXTRAORDINARY PUBLIC**
8 **INTEREST.**

9 (a) *BRIEFINGS ON AGENCY DECLASSIFICATION PRO-*
10 *GRAMS.—(1) As requested by the Board, or by the Select*
11 *Committee on Intelligence of the Senate or the Permanent*
12 *Select Committee on Intelligence of the House of Represent-*
13 *atives, the head of any agency with the authority under*
14 *an Executive Order to classify information shall provide*
15 *to the Board, the Select Committee on Intelligence of the*
16 *Senate, or the Permanent Select Committee on Intelligence*
17 *of the House of Representatives, on an annual basis, a sum-*
18 *mary briefing and report on such agency's progress and*
19 *plans in the declassification of national security informa-*
20 *tion. Such briefing shall cover the declassification goals set*
21 *by statute, regulation, or policy, the agency's progress with*
22 *respect to such goals, and the agency's planned goals and*
23 *priorities for its declassification activities over the next two*
24 *fiscal years. Agency briefings and reports shall give par-*
25 *ticular attention to progress on the declassification of*

1 *records and materials that are of archival value or extraor-*
2 *dinary public interest to the people of the United States.*

3 (2)(A) *The annual briefing and report under para-*
4 *graph (1) for agencies within the Department of Defense,*
5 *including the military departments, and the elements of the*
6 *intelligence community shall be provided on a consolidated*
7 *basis.*

8 (B) *In this paragraph, the term “elements of the intel-*
9 *ligence community” means the elements of the intelligence*
10 *community specified or designated under section 3(4) of the*
11 *National Security Act of 1947 (50 U.S.C. 401a(4)).*

12 (b) *RECOMMENDATIONS ON AGENCY DECLASSIFICA-*
13 *TION PROGRAMS.—(1) Upon reviewing and discussing de-*
14 *classification plans and progress with an agency, the Board*
15 *shall provide to the head of the agency the written rec-*
16 *ommendations of the Board as to how the agency’s declas-*
17 *sification program could be improved. A copy of each rec-*
18 *ommendation shall also be submitted to the Assistant to the*
19 *President for National Security Affairs and the Director*
20 *of the Office of Management and Budget.*

21 (2) *Consistent with the provisions of section 803(k),*
22 *the Board’s recommendations to the head of an agency*
23 *under paragraph (1) shall become public 60 days after such*
24 *recommendations are sent to the head of the agency under*
25 *that paragraph.*

1 (c) *RECOMMENDATIONS ON SPECIAL SEARCHES FOR*
2 *RECORDS OF EXTRAORDINARY PUBLIC INTEREST.—(1) The*
3 *Board shall also make recommendations to the President*
4 *regarding proposed initiatives to identify, collect, and re-*
5 *view for declassification classified records and materials of*
6 *extraordinary public interest.*

7 (2) *In making recommendations under paragraph (1),*
8 *the Board shall consider the following:*

9 (A) *The opinions and requests of Members of*
10 *Congress, including opinions and requests expressed*
11 *or embodied in letters or legislative proposals.*

12 (B) *The opinions and requests of the National*
13 *Security Council, the Director of Central Intelligence,*
14 *and the heads of other agencies.*

15 (C) *The opinions of United States citizens.*

16 (D) *The opinions of members of the Board.*

17 (E) *The impact of special searches on systematic*
18 *and all other on-going declassification programs.*

19 (F) *The costs (including budgetary costs) and the*
20 *impact that complying with the recommendations*
21 *would have on agency budgets, programs, and oper-*
22 *ations.*

23 (G) *The benefits of the recommendations.*

1 (c) *AUTHORITIES OF DIRECTOR OF CENTRAL INTEL-*
2 *LIGENCE.*—*Nothing in this title shall be construed to limit*
3 *the authorities of the Director of Central Intelligence as the*
4 *head of the intelligence community, including the Director’s*
5 *responsibility to protect intelligence sources and methods*
6 *from unauthorized disclosure as required by section*
7 *103(c)(6) of the National Security Act of 1947 (50 U.S.C.*
8 *403–3(c)(6)).*

9 (d) *EXEMPTIONS TO RELEASE OF INFORMATION.*—
10 *Nothing in this title shall be construed to limit any exemp-*
11 *tion or exception to the release to the public under this title*
12 *of information that is protected under section 552(b) of title*
13 *5, United States Code (commonly referred to as the “Free-*
14 *dom of Information Act”), or section 552a of title 5, United*
15 *States Code (commonly referred to as the “Privacy Act”).*

16 (e) *WITHHOLDING INFORMATION FROM CONGRESS.*—
17 *Nothing in this title shall be construed to authorize the*
18 *withholding of information from Congress.*

19 **SEC. 806. STANDARDS AND PROCEDURES.**

20 (a) *LIAISON.*—(1) *The head of each agency with the*
21 *authority under an Executive Order to classify information*
22 *and the head of each Federal Presidential library shall des-*
23 *ignate an employee of such agency or library, as the case*
24 *may be, to act as liaison to the Board for purposes of this*
25 *title.*

1 (2) *The Board may establish liaison and otherwise*
2 *consult with such other historical and advisory committees*
3 *as the Board considers appropriate for purposes of this title.*

4 (b) *LIMITATIONS ON ACCESS.—(1)(A) Except as pro-*
5 *vided in paragraph (2), if the head of an agency or the*
6 *head of a Federal Presidential library determines it nec-*
7 *essary to deny or restrict access of the Board, or of the agen-*
8 *cy or library liaison to the Board, to information contained*
9 *in a record or material, in whole or in part, the head of*
10 *the agency or the head of the library, as the case may be,*
11 *shall promptly notify the Board in writing of such deter-*
12 *mination.*

13 (B) *Each notice to the Board under subparagraph (A)*
14 *shall include a description of the nature of the records or*
15 *materials, and a justification for the determination, covered*
16 *by such notice.*

17 (2) *In the case of a determination referred to in para-*
18 *graph (1) with respect to a special access program created*
19 *by the Secretary of Defense, the Director of Central Intel-*
20 *ligence, or the head of any other agency, the notification*
21 *of denial of access under paragraph (1), including a de-*
22 *scription of the nature of the Board's request for access,*
23 *shall be submitted to the Assistant to the President for Na-*
24 *tional Security Affairs rather than to the Board.*

1 (c) *DISCRETION TO DISCLOSE.*—*At the conclusion of*
2 *a declassification review, the head of an agency may, in*
3 *the discretion of the head of the agency, determine that the*
4 *public’s interest in the disclosure of records or materials*
5 *of the agency covered by such review, and still properly clas-*
6 *sified, outweighs the Government’s need to protect such*
7 *records or materials, and may release such records or mate-*
8 *rials in accordance with the provisions of Executive Order*
9 *12958 or any successor order to such Executive Order.*

10 (d) *DISCRETION TO PROTECT.*—*At the conclusion of*
11 *a declassification review, the head of an agency may, in*
12 *the discretion of the head of the agency, determine that the*
13 *interest of the agency in the protection of records or mate-*
14 *rials of the agency covered by such review, and still properly*
15 *classified, outweigh’s the public’s need for access to such*
16 *records or materials, and may deny release of such records*
17 *or materials in accordance with the provisions of Executive*
18 *Order 12958 or any successor order to such Executive*
19 *Order.*

20 (e) *REPORTS.*—(1)(A) *Except as provided in para-*
21 *graph (2), the Board shall annually submit to the appro-*
22 *priate congressional committees a report on the activities*
23 *of the Board under this title, including summary informa-*
24 *tion regarding any denials by the head of an agency or*

1 *the head of a Federal Presidential library of access of the*
2 *Board to records or materials under this title.*

3 *(B) In this paragraph, the term “appropriate congress-*
4 *sional committees” means the Select Committee on Intel-*
5 *ligence and the Committee on Governmental Affairs of the*
6 *Senate and the Permanent Select Committee on Intelligence*
7 *and the Committee on Government Reform and Oversight*
8 *of the House of Representatives.*

9 *(2) Notwithstanding paragraph (1), notice that the*
10 *Board has been denied access to records and materials, and*
11 *a justification for the determination in support of the de-*
12 *denial, shall be submitted by the agency denying the access*
13 *as follows:*

14 *(A) In the case of the denial of access to a special*
15 *access program created by the Secretary of Defense, to*
16 *the Committees on Armed Services and Appropria-*
17 *tions of the Senate and to the Committees on Armed*
18 *Services and Appropriations of the House of Rep-*
19 *resentatives.*

20 *(B) In the case of the denial of access to a spe-*
21 *cial access program created by the Director of Central*
22 *Intelligence, or by the head of any other agency (in-*
23 *cluding the Department of Defense) if the special ac-*
24 *cess program pertains to intelligence activities, or of*
25 *access to any information and materials relating to*

1 *intelligence sources and methods, to the Select Com-*
2 *mittee on Intelligence of the Senate and the Perma-*
3 *nent Select Committee on Intelligence of the House of*
4 *Representatives.*

5 *(C) In the case of the denial of access to a special*
6 *access program created by the Secretary of Energy or*
7 *the Administrator for Nuclear Security, to the Com-*
8 *mittees on Armed Services and Appropriations and*
9 *the Select Committee on Intelligence of the Senate and*
10 *to the Committees on Armed Services and Appropria-*
11 *tions and the Permanent Select Committee on Intel-*
12 *ligence of the House of Representatives.*

13 **SEC. 807. JUDICIAL REVIEW.**

14 *Nothing in this title limits the protection afforded to*
15 *any information under any other provision of law. This*
16 *title is not intended and may not be construed to create*
17 *any right or benefit, substantive or procedural, enforceable*
18 *at law against the United States, its agencies, its officers,*
19 *or its employees. This title does not modify in any way*
20 *the substantive criteria or procedures for the classification*
21 *of information, nor does this title create any right or benefit*
22 *subject to judicial review.*

1 **SEC. 808. FUNDING.**

2 (a) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
3 *hereby authorized to be appropriated to carry out the provi-*
4 *sions of this title amounts as follows:*

5 (1) *For fiscal year 2001, \$650,000.*

6 (2) *For each fiscal year after fiscal year 2001,*
7 *such sums as may be necessary for such fiscal year.*

8 (b) *FUNDING REQUESTS.*—*The President shall include*
9 *in the budget submitted to Congress for each fiscal year*
10 *under section 1105 of title 31, United States Code, a request*
11 *for amounts for the activities of the Board under this title*
12 *during such fiscal year.*

13 **SEC. 809. DEFINITIONS.**

14 *In this title:*

15 (1) *AGENCY.*—(A) *Except as provided in sub-*
16 *paragraph (B), the term “agency” means the fol-*
17 *lowing:*

18 (i) *An executive agency, as that term is de-*
19 *finied in section 105 of title 5, United States*
20 *Code.*

21 (ii) *A military department, as that term is*
22 *defined in section 102 of such title.*

23 (iii) *Any other entity in the executive*
24 *branch that comes into the possession of classi-*
25 *fied information.*

26 (B) *The term does not include the Board.*

1 (2) *CLASSIFIED MATERIAL OR RECORD.*—The
2 terms “classified material” and “classified record” in-
3 clude any correspondence, memorandum, book, plan,
4 map, drawing, diagram, pictorial or graphic work,
5 photograph, film, microfilm, sound recording, video-
6 tape, machine readable records, and other documen-
7 tary material, regardless of physical form or charac-
8 teristics, that has been determined pursuant to Execu-
9 tive Order to require protection against unauthorized
10 disclosure in the interests of the national security of
11 the United States.

12 (3) *DECLASSIFICATION.*—The term “declassifica-
13 tion” means the process by which records or materials
14 that have been classified are determined no longer to
15 require protection from unauthorized disclosure to
16 protect the national security of the United States.

17 (4) *DONATED HISTORICAL MATERIAL.*—The term
18 “donated historical material” means collections of
19 personal papers donated or given to a Federal Presi-
20 dential library or other archival repository under a
21 deed of gift or otherwise.

22 (5) *FEDERAL PRESIDENTIAL LIBRARY.*—The
23 term “Federal Presidential library” means a library
24 operated and maintained by the United States Gov-
25 ernment through the National Archives and Records

1 *Administration under the applicable provisions of*
2 *chapter 21 of title 44, United States Code.*

3 (6) *NATIONAL SECURITY.—The term “national*
4 *security” means the national defense or foreign rela-*
5 *tions of the United States.*

6 (7) *RECORDS OR MATERIALS OF EXTRAORDINARY*
7 *PUBLIC INTEREST.—The term “records or materials of*
8 *extraordinary public interest” means records or mate-*
9 *rials that—*

10 (A) *demonstrate and record the national se-*
11 *curity policies, actions, and decisions of the*
12 *United States, including—*

13 (i) *policies, events, actions, and deci-*
14 *sions which led to significant national secu-*
15 *rity outcomes; and*

16 (ii) *the development and evolution of*
17 *significant United States national security*
18 *policies, actions, and decisions;*

19 (B) *will provide a significantly different*
20 *perspective in general from records and mate-*
21 *rials publicly available in other historical*
22 *sources; and*

23 (C) *would need to be addressed through ad*
24 *hoc record searches outside any systematic de-*

1 *classification program established under Execu-*
2 *tive Order.*

3 (8) *RECORDS OF ARCHIVAL VALUE.*—*The term*
4 *“records of archival value” means records that have*
5 *been determined by the Archivist of the United States*
6 *to have sufficient historical or other value to warrant*
7 *their continued preservation by the Federal Govern-*
8 *ment.*

9 **SEC. 810. SUNSET.**

10 *The provisions of this title shall expire four years after*
11 *the date of the enactment of this Act, unless reauthorized*
12 *by statute.*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 4392

AMENDMENT

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