

Act requires the Attorney General to apply to a special division of the U.S. Court of Appeals for the appointment of an independent counsel. The Act also gives the Attorney General broad discretion in seeking the appointment of independent counsel with regard to individuals other than high ranking executive branch officials. However, the Attorney General is not required to do so in such cases.

My bill amends the Act to treat allegations of misconduct, corruption or fraud on the part of Justice Department employees in the same manner as allegations made against high-ranking cabinet officials. My goal is to ensure that, when there is credible evidence of criminal wrongdoing in such cases, these cases are aggressively and objectively investigated.

I am very concerned over the growing number of cases in which Justice Department employees have been accused of misconduct, corruption or fraud. In several cases I have personally investigated, innocent men fell victim to overzealous or corrupt federal prosecutors. No action has ever been taken against the prosecutors.

The 1992 Randy Weaver incident that took place in Ruby Ridge, Idaho is perhaps the most notorious and disturbing example of Justice Department employees, in this case, high-ranking officials, acting in a questionable manner, and receiving no punishment other than disciplinary action. In the Randy Weaver case, an unarmed woman holding her infant child was shot to death by an FBI sharpshooter acting on orders from superiors. Former FBI deputy director Larry Potts allegedly approved the decision to change the rules of engagement the FBI sharpshooters and other federal officials at Ruby Ridge were acting on. The decision allowed FBI sharpshooters to shoot on sight any armed adults—whether they posed an immediate threat or not. As a result of this decision, Vicki Weaver was shot to death while holding her infant daughter.

While several officials, including Mr. Potts, were disciplined—some forced to leave the department—no criminal charges were ever filed against any of the officials involved in the Ruby Ridge incident. I would point out that at the outset of the incident a 14-year-old boy was shot in the back by U.S. Marshals. In August of 1996 the federal government agreed to pay the Weaver family more than \$3 million—but did not admit any wrongdoing in the incident. The Ruby Ridge incident served as a stark reminder that the Justice Department does not do a very good job in objectively and aggressively investigating potential criminal acts or misconduct on the part of Justice Department employees. This is especially true of actions involving Justice Department attorneys.

In 1990, a congressional inquiry found that no disciplinary action was taken on 10 specific cases investigated by the Justice Department's Office of Professional Responsibility (OPR) in which federal judges had made written findings of prosecutorial misconduct on the part of federal prosecutors. Several federal judges have expressed deep concern over the lack of supervision and control over federal prosecutors. In 1993, three federal judges in Chicago reversed the convictions of 13 members of the El Rukn street gang on conspiracy and racketeering charges after learning that

assistant U.S. attorneys had given informants alcohol, drugs and sex in federal offices in exchange for cooperation, and had knowingly used perjured testimony. No criminal charges have ever been made against the federal prosecutors nor has OPR taken any meaningful disciplinary action, other than firing one U.S. attorney.

Unfortunately for our democracy, over the years the Justice Department has built a wall of immunity around its attorneys so that it is extremely difficult to control the actions of an overzealous or corrupt prosecutor. In many instances, the attorney general has filed ethics complaints with state bar authorities against nongovernment lawyers who complain about ethical lapses by federal prosecutors. How has Congress let this agency get so out of control?

The majority of Justice Department officials are hardworking, courageous and dedicated public servants. The unethical and criminal actions of a few officials and attorneys are tarnishing the reputation of the department. By allowing these actions to go unpunished or by not taking aggressive action in the form of criminal indictments, the department is eroding the public's confidence in government.

As the El Rukn case illustrated, in their zeal to gain a conviction, federal prosecutors overstepped the boundaries of ethical and legal behavior. As a result, dangerous criminals were either set free or received greatly reduced sentences. Such actions are unacceptable. The federal government needs to act in an unambiguous and aggressive manner against any federal prosecutor or official who betrays the public trust in such a blatant and damaging fashion. Sadly, that was not done in the El Rukn case, and countless other cases where Justice Department officials acted in an unethical or illegal manner.

The American people expect that the Justice Department—more than any other federal agency—conduct its business with the highest level of ethics and integrity. It is imperative that the Independent Counsel Act be amended to require that allegations of criminal misconduct on the part of Justice Department employees be treated with the same seriousness as allegations made against high-ranking cabinet officials. I urge all of my colleagues to support this bill.

H. CON. RES. 124 AND H. CON. RES. 111—CONDEMNING DISCRIMINATION AGAINST ASIAN AMERICANS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 1999

Mr. STARK. Mr. Speaker, I rise today to actively support both H. Con. Res. 124, which seeks to protect the citizenship rights of Asian Americans, and H. Con. Res. 111, which seeks to condemn all forms of discrimination against Asian Americans.

In response to recent allegations of espionage and illegal campaign financing by the Chinese government, H. Con. Res. 124 conveys the very important point that all Americans of Asian descent are vital members of

our society and that they are to be treated fairly and equally as American citizens.

It is our duty to make the clear distinction between our relations with the government of China and how we treat Americans of Chinese descent. We must work together to prevent the rise of tensions similar to those existing during the World War II era with the internment of loyal Japanese Americans.

Asian Americans have made and continue to make significant contributions to our society in areas, such as the arts, education, and technology. H. Con. Res. 111 fully supports the continued political and civic participation by these citizens throughout the United States.

Organizations like the Oakland Chinese Community Council (OCCC) of the East Bay area work to not only help Americans of Asian descent assimilate into American culture, but help them to maintain their Asian heritage and identity as well. More specifically, OCCC has developed programs for career referral, voter registration, and training in efforts to aid new immigrants with successfully attaining their goals upon entering the United States.

I ask my colleagues to join with me in the outward condemning of discrimination against Asian Americans and in the protection of their rights as American citizens so that they may be treated with the equality and fairness that is rightfully expected and deserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

SPEECH OF

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1999

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1401) to authorize appropriations for fiscal years 2000 and 2001 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal years 2000 and 2001, and for other purposes:

Mr. BLILEY. Mr. Chairman, I rise today to express a number of concerns about H.R. 1401, the National Defense Authorization Act for FY2000, as well as about the process used to bring this legislation to the floor of the House. Key provisions of this legislation, along with a number of amendments made in order under the rule, address programs and activities of the Department of Energy that fall within the jurisdiction of the Committee on Commerce under the Rules of the House. Several examples will serve to highlight these areas of concern.

Section 3165 of H.R. 1401 consolidates responsibility for nuclear weapons activities, facilities, and laboratories under DOE's Assistant Secretary for Defense Programs. This effort to reorganize the responsibilities at the Department of Energy falls within the Committee on Commerce's responsibility for the general management of the Department of Energy, including its organization. The facts that have come to light about lax security controls at the Los Alamos National Laboratory highlight the dangers of a nuclear weapons laboratory trying to police its own security. Secretary

Richardson is moving toward the appointment of a security "czar" at DOE headquarters who would oversee security for all DOE facilities, laboratories, and operations. This section of H.R. 1401, however, would run directly counter to that approach by giving the program office, Defense Programs, responsibility for its own safeguards and security operations. Separate from the merits of a particular organizational solution, we should also preserve the prerogative of the Secretary of Energy to adapt his organization to changing circumstances. H.R. 1401 locks in a particular structure legislatively.

The Commerce Committee has a long history of ensuring that DOE maintains a system or independent checks on its program offices, including its work on the Department of Energy Organization Act. The Commerce Committee believes it is essential to maintain the safeguard and security function independent from the Defense Programs office. The same is true of other oversight functions, such as environmental protection and occupational health and safety. These should not be integrated into the DOE program offices, but should maintain the independence necessary to do the job right.

Amendment No. 2, offered by Mr. SPENCE, requires preparation of a plan to transfer all of the national security functions of the Department of Energy to the Department of Defense. Such a move is unwise, as it would violate the long-standing policy in this country of keeping the development of nuclear weapons and materials under the control of a civilian agency, separate from the military departments which might have to employ those weapons. This policy dates back to the original Atomic Energy Act enacted shortly after the end of World War II. Integrating all of these functions into the Department of Defense is a risky policy, and represents an unreasoned reaction to the recent Chinese espionage problems. This amendment would also impose stricter controls on foreign contacts by DOE employees, consultants, and contractors. While such controls may make sense in light of recent events at the Los Alamos National Laboratory, this provision has the potential to sweep too broadly, possibly encompassing any employee of DOE contractors who possess a security clearance. This could pose an impossible burden on DOE to monitor the foreign contacts of all of these potentially-covered persons.

The approach taken on this issue by Amendment No. 1, offered by Mr. COX and Mr. DICKS, is preferable. However, the Cox-Dicks amendment also makes a number of significant organizational changes to the Department of Energy, changes which are appropriately under the jurisdiction of the Committee on Commerce. While many of these changes make sense from a substantive perspective, such as the creation of separate Offices of Foreign Intelligence and Counterintelligence within the Department of Energy, these would be changes better handled by the Committee pursuant to its authority over the management of the Department of Energy.

These jurisdictional concerns extend to the process used to bring H.R. 1401 to the floor. The normal intercommittee review process for the rule for this legislation, and for consideration of amendments to H.R. 1401, has been

extremely truncated. The Committee on Commerce, one of the committees with primary jurisdiction over Department of Energy programs, has had only a minimal opportunity for review and comment on these major substantive provisions. While the situation with respect to China is highly charged and does call for a timely legislative response, we must remember that our internal House procedures are there for a reason—to ensure that we reach sound legislative decisions. Taking shortcuts with the normal committee review process increases the risk that we will pass legislation with unintended consequences. I have articulated many of these concerns in a letter to Chairman SPENCE, and I will insert it into the RECORD at this point.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 24, 1999.

Hon. FLOYD SPENCE,
Chairman, Committee on Armed Services, Wash-
ington, DC.

DEAR MR. CHAIRMAN: I am following up on my correspondence of May 21, 1999 concerning H.R. 1401, the National Defense Authorization Act for Fiscal Year 2000. After consultation with the Parliamentarians, we continue to believe that several provisions of H.R. 1401, as ordered reported, may fall within the jurisdiction of the Committee on Commerce. These provisions include:

Section 321—Remediation of Asbestos and Lead-Based Paint. One reading of this provision would permit a waiver of applicable law with respect to the remediation of asbestos and lead-based paint. I am sure that that is not the legislative intent of the language, however.

Section 653—Presentation of United States Flag to Retiring Members of the Uniformed Services not Previously Covered;

Section 3152—Duties of Commission. This section, as ordered reported, makes clear that the Commission on Nuclear Weapons Management formed pursuant to Section 3151 will specifically deal with environmental remediation. Such matters are traditionally within the jurisdiction of the Commerce Committee. I understand, however, that you have deleted subsection (a)(9) from this section, and therefore the Committee registers no jurisdictional objection.

Section 3165—Management of Nuclear Weapons Production Facilities and National Laboratories. As ordered reported, this section contains a number of provisions which we feel strongly fall within the Committee's Rule X jurisdiction over management of the Department of Energy. In particular, we are concerned about provisions which move functions heretofore carried out by various offices within the Department to the direct control of the Assistant Secretary for Defense Programs. We believe that this kind of wholesale reorganization of DOE functions must be considered by all of the committees of jurisdiction, including the Committee on Commerce.

However, recognizing your interest in bringing this legislation before the House expeditiously, the Commerce Committee has agreed not to seek a sequential referral of the bill based on the provisions listed above. By agreeing not to seek a sequential referral, the Commerce Committee does not waive its jurisdiction over the provisions listed above or any other provisions of the bill that may fall within its jurisdiction. The Committee's action in this regard should not be construed as any endorsement of the language at issue. In addition, the Commerce Committee re-

serves its right to seek conferees on any provisions within its jurisdiction which are considered in the House-Senate conference.

I request that you include this letter in the Record during consideration of this bill by the House.

Sincerely,

TOM BLILEY,
Chairman.

Finally, I must take this opportunity to discuss a matter that will have a tremendous impact on the future of the market for telecommunications services. Section 151 of the bill adds a new section 2282 to Title 10 of the U.S. Code to prohibit the Secretary of Defense from obligating monies to buy a commercial satellite communications system or to lease a communications service, including mobile satellite communications, unless doing so would not cause harmful interference with the Global Positioning System (GPS) receivers used by the Department of Defense (DoD). It is my hope that the provision is intended only to provide policy guidance to the DoD regarding the protection of the GPS from harmful interference by other users of the radio spectrum. However, the specific language in section 151 goes much further and has potential unintended consequences that may undermine the spectrum management process under which both the public and the government have operated successfully for many years.

Spectrum management issues fall within the jurisdiction of the Commerce Committee. As our Members have learned over the years, spectrum management is a complex task that requires detailed analysis and consideration. We have also learned that advocacy for spectrum policy for one purpose cannot be considered in a vacuum or without considering the impact it will have on other spectrum users.

The use of the government-created GPS network of satellites by the public has mushroomed over the last several years. Private companies continue to create valuable position location devices that will assist in the protection of life and property. We should take appropriate steps to protect and promote the use of the GPS network. In fact, two years ago, the Congress enacted the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85) which included a section endorsing and enacting into law the presidential policy on the sustainment and operation of GPS issued in March 1996. The section also directed the Secretary of Defense not to accept any restriction on the GPS system proposed by the head of any other department or agency in the exercise of that official's regulatory authority that would adversely affect the military potential of GPS. Members of the Committee on Commerce were appointed as conferees on this provision and participated in the conference negotiations.

The GPS network of satellites, like all spectrum users, operates in a community of spectrum users. Neighboring users of the band included the U.S.-promoted and licensed Mobile Satellite System networks such as GlobalStar, Iridium, Ellipso and Constellation, one of which is already fully operational and another of which is poised to commence operations later this year. Several agencies of the U.S. Government, including the DoD, have worked domestically and internationally to resolve the many technical issues surrounding the operations of these systems and the standards

their equipment must meet to protect the community of spectrum users. As I understand it, DoD has not opposed the operations of any of the licensed Mobile Satellite Systems. In fact, it already is a customer of one of these systems.

Moreover, the FCC is in the midst of a number of proceedings that address protection standards between GPS and its spectrum neighbors. DoD and the defense community will have ample opportunity to participate in the ongoing FCC proceedings and to work with Federal Communications Commission (FCC) and the National Telecommunications and Information Administration (NTIA) within the Department of Commerce, the appropriate agencies for spectrum management, to ensure that their interests are protected.

In May of this year, the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Commerce Committee held a legislative hearing on the reauthorization of NTIA. As part of that hearing, Assistant Secretary Larry Irving, Administrator of NTIA, indicated that "NTIA is also addressing issues that will protect the radio spectrum currently used by the global positioning system (GPS) and facilitate the expansion of GPS services. . . . In order for GPS to be used reliably and confidently as a worldwide utility, the radio spectrum within which it operates must be protected. . . . NTIA will also continue its efforts to work with the Department of Transportation, the Department of Defense, the Department of State, the FCC, and the private sector to ensure that spectrum is available in the future for this purpose."

It is my firm belief that we should not circumvent these ongoing processes unless absolutely necessary. There is no reason to interfere at this time. If, at the end of the day, DoD is not comfortable with the resolution of the administrative process and can demonstrate the potential harm to GPS, the Commerce Committee is prepared to consider its concerns and take action as necessary. I would also urge DoD and other GPS users to participate in the proceedings now before the FCC. The defense authorization process should not be used to end-run the spectrum management process that has worked so well for so long. It is interesting to note that DoD has made clear in conversations with Commerce Committee staff that it did not request nor does it seek inclusion of section 151 in the defense authorization process.

Accordingly, I believe that section 151, coupled with two spectrum-related provisions within the Senate's Department of Defense Authorization Act for Fiscal Year 2000 (§§ 1049 and 1050 of S. 1060), may have a negative impact on telecommunications policy. The Commerce Committee will be active to ensure that the inclusion of any provision within the final version of a defense authorization bill not interfere or cause harm to telecommunications policy. I respectfully request that these concerns be taken into account during further consideration of this legislation.

Mr. Chairman, thank you for this opportunity to comment on H.R. 1401, the Defense Authorization Bill for fiscal year 2000.

EXTENSIONS OF REMARKS

CONCERNING THE ADMINISTRATION OF THE OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS PROGRAM BY THE DEPARTMENT OF AGRICULTURE

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 1999

Mr. SKEEN. Mr. Speaker, I support funding grants to 1890, 1862, and 1994 Land Grant Colleges and Institutions to enhance the viability of small farmers by providing training and technical assistance in overall farm management practices. H.R. 1906 provides \$3,000,000 in funding for the program in fiscal year 2000, the same level as 1999 and provides that the Secretary of Agriculture may transfer up to \$7,000,000 from the Rural Housing Insurance Fund Account for "Outreach for Socially Disadvantaged Farmers." However, I am concerned about the Department of Agriculture's track record in the delivery of this program to date.

Since the program was authorized by Section 2501 of the Food, Agriculture, Conservation and Trade Act of 1990, the management of the program has been transferred to several agencies in the Department ending in the Office of Outreach under Departmental Administration since 1998.

USDA has not audited the program even though questionable fiduciary practices have surfaced, including two violations of the Antideficiency Act in 1996. In addition, in 1998, the USDA's Office of Outreach coordinated \$4.8 million in cooperative agreements with other USDA agencies for small farmer outreach training and technical assistance with the same universities and colleges that have received funding under the Section 2501 authorities.

I believe USDA should carefully review the funding and management requirements for the program and take appropriate action to ensure that eligible farmers and ranchers receive full benefit and that the American taxpayers' funds are being well spent.

For the record, I am submitting copies of the Antideficiency Act notification letters and respectfully request they be included in the CONGRESSIONAL RECORD.

JUNE 17, 1997.

Hon. FRANKLIN D. RAINES,
Director, Executive Office of the President, Office of Management and Budget, Washington, DC.

DEAR FRANK: As required by OMB Circular Number A-34, section 32.2, the Department of Agriculture (USDA) is reporting to the President, through your office, two violations of the Antideficiency Act with respect to USDA's Outreach for Socially Disadvantaged Farmers Program.

Please let me know if additional information is needed.

Sincerely,

DAN GLICKMAN,
Secretary.

Enclosure.

JUNE 17, 1997.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This letter is to report two violations of the Antideficiency

June 14, 1999

Act, as required by section 1351 of Title 31, United States Code.

Both violations occurred in the Outreach for Socially Disadvantaged Farmers Program account (1260601) of the Farm Service Agency (FSA). The program was transferred from Rural Development to FSA on October 1, 1995, under the Department of Agriculture's reorganization. The violations occurred on August 15, 1996, and August 27, 1996, and involved the obligation of funds which exceeded the amount available in the fiscal year (FY) 1996 appropriation for the Outreach for Socially Disadvantaged Farmers Program. Officers responsible for the violations were Carolyn B. Cooksie, Deputy Administrator for Farm Loan Programs and John I. Just-Buddy, Chief, Economic Enhancement Branch, FSA.

The violations occurred with the awarding of cooperative agreements by program officials which obligated \$100,000 to South Carolina State University and \$25,414.24 to Langston University. The agreements obligated funds exceeding the amount available in the FY 1996 appropriation for the Outreach for Socially Disadvantaged Farmers Program because the program managers erroneously assumed, based on informal advice they requested from FSA budgetary staff, that unexpended funds from the expired FY 1993 appropriation were available for new agreements. Program officials were unfamiliar with budget and fiscal terminology and procedures, and the FSA budget staff misunderstood the program manager's request regarding fund availability. The violations were identified in time to prevent the actual expenditure of funds in excess of the appropriation.

There is no evidence that anyone knowingly or willfully violated the law. Thus, no disciplinary action has been taken.

An adequate funds control system for FSA is in place. Officials responsible for these antideficiency violations have been counseled to verify the availability of funds prior to entering into future cooperative agreements.

The Outreach for Socially Disadvantaged Farmers Program was transferred to the Natural Resources Conservation Service (NRCS) on October 1, 1996. NRCS has been provided a copy of this letter.

Identical letters will be submitted to the presiding officer of each House of Congress.

Respectfully,

DAN GLICKMAN,
Secretary.

IN HONOR OF COMMISSIONER
JIMMY DIMORA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to invite my colleagues to pay tribute to Jimmy Dimora, on the occasion of his being honored for his twenty-eight years of service to the Cuyahoga County community.

Jimmy Dimora is a dedicated public official who has contributed a substantial portion of his life to the betterment of his community. He is especially committed to maintaining ties to labor organizations and helping the working men and women in the community. He has held a variety of public offices, ranging from